

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 IN RE: NATIONAL) MDL No. 2804
5 PRESCRIPTION OPIATE)
6 LITIGATION) Case No.
7) 1:17-MD-2804

8 THIS DOCUMENT RELATES TO) Hon. Dan A. Polster
9 ALL CASES)
10)

11 THURSDAY, DECEMBER 13, 2018

12 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
13 CONFIDENTIALITY REVIEW

14 Videotaped Deposition of DONALD STEVEN
15 MORSE, held at the Courtyard by Marriott
16 Hotel, 300 East 4th Street, Austin, Texas,
17 commencing at 8:11 a.m., on the above date,
18 before Susan Perry Miller, Registered
19 Diplomat Reporter, Certified Realtime
20 Reporter and Notary Public.

21 — — —
22 GOLKOW LITIGATION SERVICES

23 877.370.3377 ph | 917.591.5672 fax
24 deps@golkow.com
25

1 A P P E A R A N C E S:

2 MCHUGH FULLER LAW GROUP
3 BY: MICHAEL J. FULLER, ESQUIRE
4 mike@mchughfuller.com
5 A.J. ELKINS, ESQUIRE
6 aj@mchughfuller.com
7 97 Elias Whiddon Road
8 Hattiesburg, Mississippi 39402
9 (601) 261-2220
10 Counsel for MDL Plaintiffs

11 SIMMONS HANLY CONROY LLP
12 BY: RICK KROEGER, ESQUIRE
13 rkroeger@simmonsfirm.com
14 One Court Street
15 Alton, Illinois 62002
16 (618) 259-2222
17 Counsel for MDL Plaintiffs

18 WILLIAMS & CONNOLLY LLP
19 BY: STEVEN M. PYSER, ESQUIRE
20 spyser@wc.com
21 MATTHEW C. MONAHAN, ESQUIRE
22 mmonahan@wc.com
23 725 Twelfth Street, N.W.
24 Washington, D.C. 20005
25 (202) 434-5000
26 Counsel for Cardinal Health and The Witness

27 JONES DAY
28 BY: BRANDY H. RANJAN, ESQUIRE
29 branjan@jonesday.com
30 325 John H. McConnell Boulevard
31 Suite 600
32 Columbus, Ohio 43215
33 (614) 469-3939
34 Counsel for Walmart

1 A P P E A R A N C E S:

2 REED SMITH LLP

3 BY: STAN PERRY, ESQUIRE
4 sperry@reedsmith.com

5 811 Main Street
6 Suite 1700
7 Houston, Texas 77002

8 (713) 469-3800
9 Counsel for AmerisourceBergen Drug
10 Corporation

11 FOX ROTHSCHILD LLP

12 BY: STEPHAN A. CORNELL, ESQUIRE
13 scornell@foxrothschild.com
14 (via teleconference)

15 2700 Kelly Road
16 Suite 300
17 Warrington, Pennsylvania 18976
18 (215) 345-7500
19 Counsel for Prescription Supply

20 FOX ROTHSCHILD LLP

21 BY: MAURA L. BURKE, ESQUIRE
22 mburke@foxrothschild.com
23 (via teleconference)

24 2000 Market Street
25 20th Floor
26 Philadelphia, Pennsylvania 19103
27 (215) 299-2000
28 Counsel for Validus Pharmaceuticals

29 COVINGTON & BURLING LLP

30 BY: MEGHAN MONAGHAN, ESQUIRE
31 mmonaghan@cov.com
32 (via teleconference)

33 One City Center
34 850 Tenth Street, N.W.
35 Washington, D.C. 20001
36 (202) 662-6000
37 Counsel for McKesson Corporation

1 A P P E A R A N C E S:

2 ARNOLD & PORTER KAYE SCHOLER LLP
3 BY: CAITLIN MARTINI MIKA, ESQUIRE
4 caitlin.mika@arnoldporter.com
5 (via teleconference)
6 70 West Madison Street
7 Suite 4200
8 Chicago, Illinois 60602
9 (312) 583-2300
10 Counsel for Endo Health Solutions
11 Inc., Endo Pharmaceuticals Inc., Par
12 Pharmaceutical, Inc. and Par
13 Pharmaceutical Companies, Inc.

14 TUCKER ELLIS LLP
15 BY: ERICA M. JAMES, ESQUIRE
16 erica.james@tuckerellis.com
17 (via teleconference)
18 950 Main Avenue
19 Suite 1100
20 Cleveland, Ohio 44113
21 (216) 592-5000
22 Counsel for Janssen Pharmaceuticals
23 and Johnson & Johnson

24 COLLINSON DAEHNKE INLOW & GRECO
25 BY: AMANDA E. ROSENTHAL, ESQUIRE
26 amanda.rosenthal@cdiglaw.com
27 (via teleconference)
28 2110 East Flamingo Road
29 Suite 305
30 Las Vegas, Nevada 89119
31 (702) 979-2132
32 Counsel for C&R Pharmacy

33 MARCUS & SHAPIRA LLP
34 BY: ZACHARY FENSTEMAKER, ESQUIRE
35 fenstemaker@marcus-shapira.com
36 (via teleconference)
37 One Oxford Center
38 35th Floor
39 Pittsburgh, Pennsylvania 15219
40 (412) 471-3490
41 Counsel for HBC

1 A P P E A R A N C E S:

2 ALLAGAERT BERGER & VOGEL LLP
3 BY: MICHAEL S. VOGEL, ESQUIRE
4 mvogel@abv.com

(via teleconference)

4 111 Broadway
20th Floor
5 New York, New York 10006
(212) 571-0550

6 Counsel for Rochester Drug
Cooperative, Inc.

7

8 BAILEY & WYANT PLLC
9 BY: MICHAEL W. TAYLOR, ESQUIRE
mtaylor@baileywyant.com

(via teleconference)

10 500 Virginia Street East
Suite 600
11 Charleston, West Virginia 25337
(304) 345-4222

12 Counsel for West Virginia Board of
Pharmacy

13

14 TRIAL TECHNICIAN:

15 GINA R. VELDMAN,
Precision Trial Solutions

16

17 VIDEOGRAPHERS:

18 MEGHAN ENCINAS
DALTON COLE
19 Golkow Litigation Services

20

ALSO PRESENT:

21

EDNA JOHNSON, McHugh Fuller Law
22 Group

23

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24

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32		CAH_MDL2804_02283198	
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17		CAH_MDL2804-00998054 -	
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20	Morse	(Retained by Mr. Fuller)	
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1 PROCEEDINGS

2 (December 13, 2018 at 8:11 a.m.)

3 THE VIDEOGRAPHER: We're on the

4 record. My name is Meghan Encinas.

5 I'm a videographer for Golkow

6 Litigation Services. Today's date is

7 December 13th, 2018, and the time is

8 8:11 a.m.

9 This deposition is being held

10 in Austin, Texas, in the matter of

11 National Prescription Opiate

12 Litigation MDL No. 2804.

13 The deponent is Donald Steven

14 Morse.

15 Will counsel please identify

16 themselves for the record.

17 MR. FULLER: Mike Fuller on

18 behalf of the plaintiff.

19 MS. VELDMAN: Gina Veldman on

20 behalf of the plaintiff.

21 MR. ELKINS: A.J. Elkins for

22 the plaintiff.

23 MR. KROEGER: Rick Kroeger for

24 the plaintiffs.

25 MR. PERRY: Stan Perry, Reed

1 Smith, for AmerisourceBergen Drug
2 Corporation.

3 MR. MONAHAN: Matthew Monahan,
4 Williams & Connolly, on behalf of
5 Cardinal Health.

6 MR. PYSER: Steven Pyser,
7 Williams & Connolly, on behalf of
8 Cardinal Health and the witness.

9 THE REPORTER: Those on the
10 phone, please?

11 MR. CORNELL: Steve Cornell for
12 Prescription Supply.

13 MS. MIKA: Caite Mika from
14 Arnold & Porter on behalf of Endo and
15 Par Pharmaceutical defendants.

16 MS. MONAGHAN: Meghan Monaghan
17 on behalf of McKesson.

18 THE REPORTER: Anyone else?

19 MS. JAMES: Erica James on
20 behalf of Janssen Pharmaceuticals and
21 Johnson & Johnson.

22 MR. FULLER: I'm sorry, who was
23 on behalf of Johnson & Johnson?

24 MS. JAMES: Erica James of
25 Tucker Ellis.

1 MR. FULLER: Thank you.

2 MS. ROSENTHAL: Amanda
3 Rosenthal on behalf of C&R Pharmacy.

4 MS. BURKE: Maura Burke on
5 behalf of Validus Pharmaceuticals.

6 MR. FENSTEMAKER: Zach
7 Fenstemaker, Marcus & Shapira, on
8 behalf of HBC.

9 THE REPORTER: Anyone else?

10 DONALD STEVEN MORSE,
11 having taken an oath to tell the truth, the
12 whole truth, and nothing but the truth,
13 testified as follows:

14 EXAMINATION

15 BY MR. FULLER:

16 Q. Mr. Morse, you started with
17 Cardinal in February of 2008. Is that
18 correct?

19 A. I believe it was March.

20 Q. And you started -- what was
21 your position?

22 A. For Cardinal Health, I was the
23 director of supply chain integrity,
24 anti-diversion.

25 Q. Okay. And let's bring up 3892,

1 please.

2 (Cardinal-Morse Exhibit 1
3 marked.)

4 MR. FULLER: For the record,
5 Plaintiffs' Exhibit 1. We need
6 multiple copies.

7 MR. PYSER: Do you have a copy?

8 MR. FULLER: Yeah, all of them.
9 Well, I guess we don't need four
10 copies since, for the record, we are
11 lacking in attendance today in person.

12 All right. And, yeah, Gina, if
13 you'll go to the next page. There you
14 go.

15 BY MR. FULLER:

16 Q. So if you look at these
17 documents as we go through them today,
18 Mr. Morse, you'll see in the upper right-hand
19 corner of the document there will be a P1
20 number.

21 Do you see that?

22 A. I do.

23 Q. And this one is P1-3892, and
24 then each page is the page number after the
25 decimal point.

1 Do you see that?

2 A. I do.

3 Q. Okay. So when I refer to a
4 page, that's where I want you to look. Some
5 of them may have page numbers on the bottom
6 as well. Let's just try to disregard those
7 and so everybody is on the same page.

8 Mr. Pyser, for example, knows
9 this because he's been through, I don't know,
10 a bajillion depos with me already.

11 MR. PYSER: One or two.

12 BY MR. FULLER:

13 Q. So that's what I'll be
14 referring to. Okay?

15 A. All right.

16 Q. All right. If you turn to the
17 second page of this document, it says "Supply
18 Chain Integrity" and it's a PowerPoint
19 presentation.

20 Do you know who Mr. Mark
21 Hartman is?

22 A. Yes.

23 Q. And he was your boss' boss
24 during this time frame, correct?

25 A. That is correct.

1 Q. You reported to Mr. Moné. Is
2 that correct?

3 A. Yes.

4 Q. And it's your understanding
5 that Mr. Moné reported to Mark Hartman. Is
6 that fair?

7 A. Yes.

8 Q. Okay. Have you seen this
9 presentation that Mark Hartman put together?

10 A. Give me a moment.

11 (Document review by witness.)

12 A. I don't recall ever reviewing
13 this document.

14 BY MR. FULLER:

15 Q. Okay. Turn to page 4 of this
16 document, if you would. And you'll see
17 there, I believe, a picture of Mark Hartman?

18 A. (Nods head.)

19 Q. As he put it, a younger version
20 of Mark Hartman.

21 A. Yep.

22 Q. Does that appear to be Mark
23 Hartman --

24 A. That's Mark Hartman.

25 Q. -- at least back in the

1 2007-2008 time frame?

2 A. When I knew him, he looked like
3 that.

4 Q. Okay, fair enough.

5 And he's the senior vice
6 president, as it indicates, related to supply
7 chain integrity and regulatory operations and
8 joined Cardinal in 1998. You're aware of
9 that, correct?

10 A. Prior, no. Now, yes.

11 Q. Okay. And it says he had
12 "Oversight of Cardinal Health's
13 pharmaceutical anti-diversion controls and
14 pedigree efforts."

15 Do you see that there?

16 A. Yes.

17 Q. And he was "Responsible for the
18 establishment and deployment of a robust
19 Quality System which ensures regulatory
20 compliance."

21 Did I read that correctly?

22 A. You did.

23 Q. And at the time, Cardinal had
24 27 pharmaceutical and 50 medical distribution
25 centers nationally. Is that right?

1 A. That's what this says.

2 Q. And you also know that at the
3 time when you came into Cardinal, they had
4 recently had immediate suspension orders
5 issued to three of their distribution centers
6 and a fourth had voluntarily given up its
7 ability to distribute controlled substances
8 here in Texas, correct?

9 MR. PYSER: Object to form.

10 A. I became aware of that.

11 BY MR. FULLER:

12 Q. Let's turn to the next page.
13 Do you see that, "Supply Chain Integrity"?
14 Do you have an understanding what that means,
15 Mr. Morse?

16 A. In the context of Cardinal
17 Health, yes.

18 Q. And can you explain to the jury
19 what your understanding of supply chain
20 integrity is? And you can broaden it a
21 little bit and explain, what is the supply
22 chain as it relates to controlled substances?

23 A. Okay. As relates to controlled
24 substances?

25 Q. Yes, sir.

1 A. Okay. Well, supply chain
2 integrity, there's a -- Cardinal is a
3 distributor and one piece of the supply
4 chain. The supply chain will start with the
5 manufacturer, go through a wholesaler --

6 Q. Such as Cardinal, correct?

7 A. Such as Cardinal. And then
8 from Cardinal, which also has other -- it's a
9 healthcare company that also makes -- oh,
10 goodness -- medical devices. Part of their
11 services they provide are distribution of
12 drugs, including controlled substances. They
13 distribute those to licensees who are allowed
14 to possess those drugs.

15 Q. And when you say "licensees,"
16 you mean DEA registrants. Is that correct?

17 A. They would have to be DEA
18 registrants if a controlled substance was
19 involved. If a controlled substance was not
20 involved, they would not necessarily have to
21 have that.

22 Q. And for the purposes of my
23 questions in this deposition, we want to
24 focus on the controlled substance aspect of
25 it. Is that fair? Okay?

1 A. That's fair.

2 Q. Okay.

3 MR. PYSER: Object to form.

4 BY MR. FULLER:

5 Q. And you're aware that this is a
6 closed system, correct? Meaning that not
7 everybody can be a participant.

8 A. That's right.

9 Q. And that was the way that the
10 legislature or Congress designed this system,
11 because we're dealing, particularly with
12 controlled substances, with, quote/unquote,
13 "dangerous drugs."

14 MR. PYSER: Object to form.

15 A. My definition of "dangerous
16 drugs" would not include that.

17 BY MR. FULLER:

18 Q. So Controlled IIs, under your
19 definition, doesn't include dangerous drugs?

20 MR. PYSER: Object to form.

21 A. I'm -- I'm using a definition
22 from the Texas State Board of Pharmacy. A
23 dangerous drug is a drug that is -- is unsafe
24 for use by a patient without medical
25 supervision or prescribing. Controlled

1 substances, in the State of Texas, are a
2 subset of that.

3 BY MR. FULLER:

4 Q. So under the federal
5 designation, does the definition of
6 controlled substances, Schedule IIs, include
7 dangerous drugs? Or do you know?

8 A. I do not know what the federal
9 requirement is.

10 Q. Okay. And during this time
11 that you were with Cardinal, you had
12 oversight across the entire country. Isn't
13 that right?

14 A. In my role, yes, because we
15 distributed across the country.

16 Q. You weren't confined to Texas
17 by any means.

18 A. No.

19 Q. Okay. Well, let's see what
20 Mr. Hartman has to say about supply chain
21 integrity. And you'll see, we have this
22 screen up in front of us, this big screen.
23 Gina, to my right, she's going to follow
24 along and she's going to highlight certain
25 sections of the document and blow it up so it

1 may be easier to read and see rather than the
2 version that's in front of us.

3 A. Rather than here, okay.

4 Q. Okay? So "Supply Chain
5 Integrity is a holistic approach to the
6 supply chain ecosystem of an industry aimed
7 to create a safe and secure supply chain from
8 manufacturer to end user."

9 It's basically what you
10 described, correct?

11 A. Yes.

12 Q. Then again, and let me ask, are
13 you aware that Mr. Hartman changed positions
14 with Cardinal shortly before your arrival?
15 Back in December of 2007 he was brought into
16 the anti-diversion division because of these
17 ongoings with the license suspensions.

18 Are you aware of that?

19 A. I was not aware of that.

20 MR. PYSER: Object. Object to
21 form.

22 BY MR. FULLER:

23 Q. All right. Are you aware that
24 his goal and objective was to revamp the
25 anti-diversion system that Cardinal was

1 operating?

2 MR. PYSER: Object to form.

3 Calls for speculation.

4 A. I do not know why he was -- I
5 am not aware.

6 BY MR. FULLER:

7 Q. Did you know that's one of the
8 things he was doing?

9 A. At the time I got there, that's
10 one of the things he was doing.

11 Q. Was it explained to you that --
12 well, we'll get to it in a second.

13 So Mr. Hartman says in this
14 presentation, "Cardinal began work in Supply
15 Chain Integrity as a response to leaks within
16 the pharmaceutical chain."

17 Now, you've never talked to
18 Mr. Hartman about this presentation, correct?

19 A. No.

20 Q. So let's go to Hartman Clip 3,
21 please. And this clip will also play on the
22 screen in front of you, Mr. Morse.

23 (Whereupon, a video was played
24 aloud in the deposition room.)

25 MR. FULLER: Sorry, wrong one.

1 Hartman Clip 3.

2 MS. VELDMAN: Sorry.

3 MR. FULLER: That's all right.

4 (Whereupon, a video was played
5 aloud in the deposition room,
6 transcribed as follows.)

7 "QUESTION: Let's go back to
8 3892. It says here, 'Cardinal began
9 work in supply chain integrity as a
10 response to leaks within the
11 pharmaceutical value chain.' And
12 that's because when you were brought
13 in, Cardinal had leaks in their
14 system. They had leaks in the supply
15 chain, right?

16 "ANSWER: Yes.

17 "QUESTION: And that was part
18 of what you were there to help
19 correct, isn't it?

20 "ANSWER: Yes."

21 (Whereupon, the video playback
22 was terminated.)

23 BY MR. FULLER:

24 Q. Now, Mr. Morse, were you made
25 aware that at the time of your coming in,

1 Cardinal had determined that it had leaks in
2 its supply chain, according to Mr. Hartman?

3 A. I did not know that.

4 Q. Does that surprise you to hear
5 that for the first time today?

6 Let me ask it differently.
7 Strike the question.

8 You were being brought into a
9 position in which you were providing
10 regulatory oversight to this supply chain in
11 preventing the diversion of controlled
12 substances, correct?

13 A. Would you restate the question?

14 Q. Sure.

15 When you were brought in, you
16 were being brought into a position to provide
17 regulatory oversight as it relates to
18 anti-diversion, correct?

19 A. I had responsibility for a
20 piece of it, yes.

21 Q. Okay. And to enable you to do
22 your job, if there were predetermined leaks
23 in the system, wouldn't you want to know what
24 those were?

25 MR. PYSER: Object to form.

1 A. I was not aware of any leaks --

2 BY MR. FULLER:

3 Q. And I didn't say you were.

4 A. So I -- your question is?

5 Q. My question was, wouldn't you
6 want to know? If -- your job, as you just
7 testified, is part of this anti-diversion
8 mechanisms to prevent diversion of controlled
9 substances, correct?

10 MR. PYSER: Object to form.

11 A. A small piece of that, yes.

12 BY MR. FULLER:

13 Q. Sure.

14 A. But only a small piece.

15 Q. And if part of what you're
16 doing is trying to prevent diversion and
17 there's, according to Mr. Hartman, leaks in
18 the system, wouldn't you want to know at
19 least what those were?

20 MR. PYSER: Object to form.

21 A. I may have been told of those
22 leaks without calling them "leaks."

23 BY MR. FULLER:

24 Q. Sure. I'm not saying you were
25 or weren't.

1 A. Yes, I would have liked to have
2 known.

3 Q. I'm just saying, wouldn't you
4 want to know?

5 A. I would need to know.

6 Q. I mean, let's talk about it. I
7 know, from the documents produced by your
8 counsel, a lot of what you did was
9 investigations of pharmacies, correct?

10 A. Primary job.

11 Q. And when you went out to the
12 pharmacy, you didn't just look at the here
13 and now. You may look at prior data for that
14 pharmacy, correct, as part of the
15 investigative process? Correct?

16 A. Yes.

17 Q. You may gather past sales
18 histories, right? Dosage -- what do y'all
19 call it when you get the prior sales for the
20 pharmacy?

21 A. What do you mean by "sales"? I
22 mean, serious. Is that money? Is that
23 dosage units?

24 Q. No, number of pills.

25 A. Number of pills? We had the

1 information from our system, yes.

2 Q. And do you not, on a regular
3 basis, get the information from the pharmacy
4 as to their recent sales of controlled
5 substances as well as noncontrolled
6 substances?

7 A. You request that information.

8 Q. And what are those reports
9 called?

10 A. From them?

11 Q. Sure.

12 A. I don't recall the name of
13 them.

14 Q. The dosage usage?

15 A. I do not recall.

16 Q. Okay. In any case, you pulled
17 prior information from these pharmacies,
18 correct?

19 A. They provided prior information
20 to me.

21 Q. Well, you asked for it.

22 A. Yes.

23 Q. You also do research on the
24 internet related to the pharmacies, correct?

25 A. Yes.

1 Q. As well as the pharmacists at
2 the building as well as potentially the owner
3 as well as potentially doctors that are main
4 prescribers for these pharmacies, right?

5 A. At various times, yes.

6 Q. And the reason you do that is
7 the more information you have, the better you
8 can effectuate your job, correct?

9 A. Yes.

10 Q. So if Cardinal knew they had
11 leaks in the system, that would be something
12 that you would want to have been told about,
13 correct?

14 MR. PYSER: Object to form.

15 A. Yes.

16 BY MR. FULLER:

17 Q. And sitting here today, you
18 don't -- there's nothing that you remember
19 about being told about these potential leaks,
20 correct?

21 MR. PYSER: Object to form.

22 A. Not under the term "leaks."

23 BY MR. FULLER:

24 Q. Sure. Not saying you weren't
25 told; you just don't recollect sitting here

1 today?

2 A. Not under the term "leaks."

3 Q. Fair enough.

4 Turn to page 6 of the document.

5 And let me ask you, while we're bringing that
6 up, you're aware that this country is facing
7 an opioid epidemic, correct?

8 A. It has been, yes.

9 Q. You're aware that even back in
10 '06, '07, '08, your time frame of joining
11 Cardinal, we were in the throes of an opioid
12 epidemic, correct?

13 A. I was aware of the epidemic in
14 the United States.

15 Q. And did your knowledge of the
16 epidemic come from when you joined Cardinal
17 or did you already have preexisting knowledge
18 of the epidemic?

19 A. Preexisting.

20 Q. And how far -- strike that.

21 Let's look at the slide from
22 Mr. Hartman on page 6 of his presentation.
23 If you look at the bottom -- well, excuse me.
24 It says, "We're all responsible."

25 Do you see that there? The

1 very top. It's hard to see. If you look on
2 the screen, Mr. Morse.

3 A. Oh, there. Okay.

4 Q. Yeah. Because it's not in
5 color, it makes it a little hard to see.

6 And it says at the bottom, he
7 says, "I don't know about you, but this stuff
8 scares me. I have seven kids ranging from 28
9 to 13. I'm living this issue of prescription
10 drug abuse at work and the fear of it at
11 home, and our kids are obviously finding ways
12 to get the drugs. In many cases, it's coming
13 from illegitimate means."

14 You were aware that that was
15 going on in our country during this time
16 frame, even prior to this time frame,
17 correct, Mr. Morse?

18 A. Yes.

19 Q. And let's show a video that
20 Mr. Hartman inputted into this presentation.

21 (Whereupon, a video was played
22 aloud in the deposition room,
23 transcribed as follows.)

24 "MALE SPEAKER: This yellow one
25 is for my postpartum depression. This

1 one, sciatica, whatever that is. I
2 got these after my hysterectomy and my
3 prostatectomy, some ectomy. And this
4 guys is for the pain from my last hip
5 replacement. This orange one is...

6 "VOICEOVER: For teens, getting
7 drugs can be as easy as opening your
8 medicine cabinet.

9 "FEMALE SPEAKER: One night I
10 had taken maybe four different kinds
11 of pills. I took Xanax, which was the
12 majority of what the pills were. I
13 took a Roxy. I took Percocets.

14 "VOICEOVER: But once you're
15 in, all the different pills are dumped
16 into a pile or a bowl, something kids
17 call trail mix.

18 "FEMALE SPEAKER: We put it on
19 the table. We mix it up, and whatever
20 you got is what you got.

21 "VOICEOVER: And what kids get
22 are fistfuls of pills.

23 "RAPPER: Go on and slip me two
24 Xanax bars. I'm ready to get fool.
25 Fifth of Crown to wash it down. I'm

1 downtown snapping rolls. Ain't no
2 shame up in my game. In fact, I'm
3 mentally deranged. Oxy Cotton in my
4 system. Man, I'm feeling kinda
5 strange.

6 "TWO FEMALE SPEAKERS: Go on and
7 slip me two Xanax bars. I'm ready to
8 get fool. Fifth of Crown to wash it
9 down. I'm downtown snapping rolls.
10 Ain't no shame up in my game. In
11 fact, I'm mentally deranged. Oxy
12 Cotton in my system. Man, I'm feeling
13 kinda strange. Watch me choke about
14 this dope, Blueberry" --

15 (Whereupon the video playback
16 was terminated.)

17 BY MR. FULLER:

18 Q. Are you aware, Mr. Morse, that
19 currently 2500 kids a day abuse prescription
20 pain medication for the first time? Every
21 day in our country.

22 MR. PYSER: Object to form.

23 A. Would you repeat the question?

24 Am I aware?

25 --oOo--

1 BY MR. FULLER:

2 Q. Yes, sir.

3 A. I would not be aware of the
4 number.

5 Q. Does that number shock you,
6 that in this country today, 2500 kids, just
7 today, while we're sitting here, will abuse
8 prescription pain meds for the first time?

9 A. I would be shocked that kids
10 are using those medications inappropriately,
11 yes.

12 MR. PYSER: I'm going to object
13 to form on the last one.

14 MR. FULLER: Sure.

15 BY MR. FULLER:

16 Q. Are you aware that as we sit
17 here today, 100 people will die due to
18 opioid-related overdoses?

19 A. I don't know the number.

20 MR. PYSER: Object to form.

21 BY MR. FULLER:

22 Q. Does that number shock you?
23 While we're sitting here today doing this
24 deposition, over 100 people will die from
25 opioid-related overdoses.

1 MR. PYSER: Object to form.

2 A. Does it shock me?

3 BY MR. FULLER:

4 Q. Yes, sir.

5 A. It shouldn't happen.

6 Q. All right. Let's turn to
7 page 8. And here's another slide from
8 Mr. Hartman. It's the Pharmaceutical Supply
9 Chain - Diversion for Abuse. And if you look
10 at his writings, the last paragraph he
11 does -- and again, it's blown up on the
12 screen for us -- says, "DEA estimates that
13 nearly 7 million Americans currently abuse
14 prescription drugs, up 80% from 2000. 10% of
15 high school seniors admit to abusing
16 painkillers. Every day, 2500 youths (12-17)
17 abuse a prescription pain reliever for the
18 first time."

19 That's quite disconcerting,
20 isn't it, Mr. Morse?

21 A. The youths that are involved,
22 yes.

23 Q. I mean, it's horrible what's
24 going on in our country. Even back in
25 2006-2007, according to Mr. Hartman's

1 PowerPoint.

2 A. Where is the context? Where
3 are these prescription pain medications
4 coming from?

5 Q. And that's a great question.
6 So let's talk about this. This isn't heroin
7 off the street, right? This says it's
8 prescription pain meds.

9 A. The way it's worded, it says
10 prescription pain medication.

11 Q. This isn't cocaine, this isn't
12 marijuana, this isn't any of the illicit made
13 on the street. This isn't meth, something we
14 can cook in our house, right?

15 A. That's correct.

16 Q. The prescription pain
17 medications have to come from a manufacturer,
18 correct?

19 A. Yes.

20 Q. This isn't something that Joe
21 Smith, the drug dealer, is making in his
22 house, right?

23 A. Prescription pain -- yes,
24 that's correct.

25 Q. It has to go through a

1 wholesale distributor such as Cardinal,
2 right?

3 A. In most cases, yes.

4 Q. Through a pharmacy to an end
5 user. Right?

6 A. You left out something.

7 Q. What have I left out?

8 A. The end user to me is the
9 patient.

10 Q. Yes. I said to the pharmacy,
11 then to the end user.

12 A. That end user received that
13 medication pursuant to a prescription from a
14 physician. But the drug itself followed the
15 route as you've stated.

16 Q. And are you aware that Cardinal
17 filled prescriptions that were not based on a
18 physician-patient relationship?

19 A. Cardinal --

20 MR. PYSER: Object to -- object
21 to form.

22 Go ahead and answer.

23 A. Cardinal Health does not fill
24 prescriptions.

25 --oOo--

1 BY MR. FULLER:

2 Q. Are you aware that Cardinal was
3 providing opioids to pharmacies that it knew
4 or should have known were filling
5 prescriptions that were not based on a
6 legitimate doctor-patient relationship?

7 A. I do not know that.

8 Q. Are you aware, through any of
9 your investigations across the entire
10 country, of pharmacies that Cardinal was
11 providing, disbursing or dispensing pills to,
12 distributing pills to, that had been filling
13 fraudulent scripts?

14 A. Not with certainty.

15 Q. Okay. We'll get to that later.

16 All right. Let's go to 4085.

17 MR. PYSER: Just for

18 Mr. Morse's benefit, when you're
19 finished with a document, just pile
20 them up over here.

21 BY MR. FULLER:

22 Q. And Mr. Pyser is right, because
23 we may go back to some of these. So if you
24 have them, and if he helps you keep them in
25 numerical order, that may be even easier.

1 (Sotto voce discussion.)

2 (Cardinal-Morse Exhibit 2

3 marked.)

4 BY MR. FULLER:

5 Q. So the first document, which
6 is -- I'm sorry -- 3892, is going to be
7 Plaintiffs' Exhibit 1. This is going to be
8 Plaintiffs' Exhibit 2, which is P1-4085. And
9 again, like before, Mr. Morse, you'll see it
10 blown up on the screen.

11 Have you seen this document
12 before today? Government's Prehearing
13 Statement?

14 A. I have not seen this document.

15 Q. In the matter of Cardinal
16 Health vs. Attorney General Holder, are you
17 aware of that matter that is related to an
18 immediate suspension order that was executed
19 in Florida in February of 2012?

20 A. I'm aware there was an order.

21 Q. Okay. And you're aware that
22 there was litigation related to that order?

23 A. I was aware.

24 Q. Were you aware that both
25 Cardinal employees, including your direct

1 report, Mr. Moné, provided declarations in
2 that matter?

3 A. I did not, or I was not aware.

4 Q. Fair enough.

5 A. The way you stated it.

6 Q. So this, in that litigation, is
7 the government's pretrial statement dated
8 February 22nd of 2012.

9 Do you see that?

10 A. Yes.

11 Q. Okay. And if you'd turn to the
12 next page, it's going to be point 2, do you
13 see there it says, the "Issue"? "Whether the
14 DEA should revoke the registration of
15 Cardinal Health Lakeland (Respondent)," so
16 whenever we see "Respondent" throughout this
17 document we'll know it's talking about
18 Cardinal Health Lakeland, okay?

19 A. Okay.

20 Q. "DEA Certificate of
21 Registration RC0182080 pursuant to 21 U.S.C.
22 2804(a)(4) [as read] and '23(b) and (e) and
23 deny any pending application for renewal or
24 modification of such registration, pursuant
25 to 21 U.S.C. 280 -- excuse me, 823(b) and

1 (e) ."

2 Did I read that correctly?

3 A. I don't see any differences.

4 Q. Okay. And then it says,

5 "Requested Relief. The Government requests

6 revocation of the Respondent's DEA

7 Certificate of Registration," and it gives

8 the number again, right?

9 A. Uh-huh.

10 Q. And you're -- is that a yes?

11 A. It is.

12 Q. Okay. And I apologize. We've
13 just got to make sure we respond verbally.

14 A. I understand. I understand.

15 Q. You're aware that during 2012,
16 Cardinal had -- the Lakeland facility, had
17 its DEA registration revoked for a second
18 time, correct?

19 A. Yes.

20 Q. Okay. And just for your
21 background, so this is a pretrial statement
22 that was filed with the court based on a lot
23 of varying information. And what we're going
24 to do is we're going to --

25 A. Pretrial, okay.

1 Q. -- we're going to walk through
2 some of this document because it's going to
3 get us to some facts and move us through some
4 set of different issues I want to talk to you
5 about, okay?

6 A. Okay.

7 Q. So we're going to be spending a
8 good bit of the day with this document.

9 Now, let's go back to -- yeah.
10 Let's go back to page 8. And you see there
11 in the middle of the page, "In addition, DEA
12 offers a variety of conferences which are
13 open to DEA registrants, including
14 distributors. In fact, the records indicate
15 that Cardinal Health sent three
16 representatives (including Mr. Moné and
17 Mr. Reardon)." We already talked about
18 Mr. Moné. You also know Mr. Reardon as well,
19 correct?

20 A. I know him.

21 Q. And what was his role in
22 relation to yours?

23 A. Not in my area of control or
24 supervision at all, nor within my chain of
25 command. I believe he was a vice president.

1 His role --

2 Q. Did he also report, like
3 Mr. Moné, to Mr. Hartman, to the best of your
4 understanding? Or do you know?

5 A. I do not know.

6 Q. Fair enough.

7 It says -- "to DEA's
8 Pharmaceutical Conference on October 14 and
9 15 of 2009. This conference promotes a
10 close -- closer cooperation between the
11 pharmaceutical industry and the DEA."

12 If you go down to the next
13 paragraph, it says, "The DEA also provides
14 presentations to and holds meetings with the
15 industry trade group, HDMA, or Healthcare
16 Distribution Management Association, of which
17 Cardinal is a member. Between May 6 of 2008
18 and December 31st of 2011, DEA
19 representatives gave presentations to and
20 held meetings with the HDMA in Maryland, the
21 District of Columbia, Florida, and Virginia
22 on 11 occasions."

23 Did you ever have an
24 opportunity to attend any of those meetings?

25 A. No.

1 Q. Did you have any meetings with
2 the DEA?

3 A. Yes.

4 Q. What meetings did you have with
5 the DEA, Mr. Morse?

6 A. They came to the facility --

7 Q. And when you say "the
8 facility," can you tell us which one?

9 A. The facility would be the
10 corporate office. I'm sorry.

11 Q. Fair enough.

12 A. Came to the corporate office.
13 The program was set up as a centralized
14 system. We were aware of what was occurring
15 in all of the varying distribution centers.
16 We centralized the anti-diversion piece --

17 Q. I'm sorry, you're not talking
18 about what the DEA did. You're talking about
19 that Cardinal --

20 A. Yes. They came to Cardinal to
21 review the centralized process. And there
22 were several people there to meet with them.
23 I was one of them.

24 Q. Who else --

25 A. I was one of the, I guess,

1 subject matter experts there.

2 Q. Who else was there from
3 Cardinal, if you can recollect?

4 A. It wouldn't be a complete
5 recollection.

6 Q. Give me what you can recall.
7 Was Mr. Moné there?

8 A. Mr. Moné was there.

9 Q. Do you recall whether
10 Mr. Hartman was there?

11 A. This was in 2008? Oh, wait,
12 no. This discussion was -- I'm not sure that
13 Mr. Hartman was still with the company at the
14 time of this particular meeting. I can't
15 remember exactly when it was.

16 Q. So if Mr. Hartman wasn't there,
17 do we think it was later than 2010?

18 A. I just don't remember.

19 Q. Okay.

20 A. Others -- I just don't
21 remember.

22 Q. Do you remember what year this
23 meeting was?

24 A. I do not remember.

25 Q. Do you remember whether anyone

1 other than yourself and Mr. Moné was in
2 attendance?

3 A. Nick Rausch was in attendance.
4 It was not a meeting where people were there
5 the entire time, so people called in when
6 they needed to be helped. Nick Rausch was
7 there, I was there some. Chris Forst was
8 there. As far as names, that's all I can
9 remember.

10 Q. And who was there from the DEA?

11 A. I don't remember the names.

12 Q. Do you remember how many of
13 them there were? Was it more than one?

14 A. Yes, more than one.

15 Q. And this is the only time that
16 you met with the DEA?

17 A. The only time I can recall.

18 Q. Okay. So let's go to page 9 of
19 this document, Cardinal Health's prior
20 suspension. Do you see that section on
21 page 9?

22 A. Yes.

23 Q. Okay. Now, you're aware, as we
24 talked about just a moment ago, of the prior
25 suspensions, are you not?

1 A. I was aware that they had
2 occurred.

3 Q. And then if we read this, "The
4 DEA suspended operations at three Cardinal
5 Health distribution facilities, including
6 Respondent, through a series of Immediate
7 Suspension Orders (ISOs) issued between
8 November 28 of 2007 and January 30 of 2008
9 based on the DEA's conclusion that they
10 'failed to maintain effective controls
11 against diversion.'"

12 That would have been just
13 before your arrival at Cardinal. Is that
14 correct?

15 A. Correct.

16 Q. If we turn the page, the next
17 full paragraph on that page, it says, "DEA
18 also issued an Order to Show Cause to revoke
19 the registration of Cardinal Health's
20 Stafford, Texas facility based on the
21 'failure to conduct appropriate due
22 diligence.'"

23 Do you see that there?

24 A. I see it.

25 Q. You're aware of that as well,

1 correct?

2 A. From this document.

3 Q. Were you not aware that there
4 was an order to show cause issued to the
5 Texas distribution center just prior to your
6 arrival at Cardinal?

7 A. I would not have been aware of
8 that.

9 Q. No one ever shared that
10 information, that --

11 A. The information I had, that
12 three of them -- three facilities that had
13 their DEA registrations revoked.

14 Q. And that was immediate
15 suspension orders, correct?

16 A. Okay. I'm not sure what you
17 call them.

18 Q. Okay. But that's where your
19 understanding is that the DEA took their
20 license or registration, correct?

21 A. Yes.

22 Q. Okay. Well, I'll represent to
23 you an order to show cause is not an
24 immediate suspension order. And in Stafford,
25 Texas, the DEA did not take their license.

1 It says, "In addition to the
2 three Cardinal Health distribution facilities
3 that received ISOs," or immediate suspension
4 orders, "the DEA also alleged Cardinal Health
5 'failed to maintain effective controls
6 against the diversion of controlled
7 substances' at three other facilities. In
8 total, the DEA had reason to believe that 7
9 of Cardinal Health's 27 distribution
10 centers - roughly 25% - were not adhering to
11 their responsibilities as a registrant."

12 Do you see that there?

13 MR. PYSER: Object to form for
14 the prelude to the question.

15 A. I see it there.

16 BY MR. FULLER:

17 Q. And did you not know that
18 before today? Did no one ever share this
19 information to you when you came in to work
20 in the anti-diversion department at Cardinal
21 Health?

22 A. Well, these allegations, I
23 believe that's what this is, isn't it
24 correct? This is -- pre-hearing statements.
25 These are allegations. I don't know whether

1 those are true. All I know is that three
2 facilities --

3 Q. I'm not asking you,
4 Mr. Morse --

5 A. -- lost their registration.

6 Q. -- whether it's true.

7 MR. PYSER: Counsel, please let
8 him finish his answer.

9 A. I was aware that three
10 facilities had lost their registrations.

11 BY MR. FULLER:

12 Q. Okay. That's not what I'm
13 asking you, Mr. Morse.

14 I'm asking you if you know that
15 the DEA made allegations, made findings
16 related to 25% of Cardinal's distribution
17 centers in the effectiveness of controls
18 related to anti-diversion?

19 A. Not until this time.

20 MR. PYSER: Object to form.

21 BY MR. FULLER:

22 Q. So even though you came with
23 whatever small piece of the anti-diversion
24 puzzle you had, no one had shared this
25 information before I shared it with you

1 today, correct?

2 A. Not in this detail.

3 Q. Okay. Well, this is just an
4 overview. We'll get to the detail.

5 It says "Cardinal Health's 2008
6 Memorandum of Agreement with the DEA." Are
7 you aware that they entered into a memorandum
8 agreement with the DEA, Mr. Morse?

9 A. I was aware.

10 Q. Have you reviewed that
11 document? Let me strike that. Let me ask it
12 differently.

13 Did you review that document
14 when it was entered back in 2008 as an
15 employee of Cardinal Health in the
16 anti-diversion department?

17 A. I do not recall reviewing the
18 document.

19 Q. Did someone give you an
20 educational seminar on the document and what
21 obligations Cardinal undertook based on that
22 document back in 2008?

23 A. Seminar, no. Discussion with
24 others, yes.

25 Q. Who discussed it with you?

1 A. Michael Moné.

2 Q. And what did Mr. Moné tell you
3 about this 2008 memorandum agreement with the
4 DEA?

5 A. He gave me the essentials that
6 I would need to fulfill my role. That's all
7 I remember.

8 Q. What were those essentials?
9 What did Mr. Moné tell you related to your
10 role in this memorandum agreement back from
11 2008?

12 A. I can't recall all of that, no.

13 Q. Can you recall any of it?

14 A. There were obviously some
15 suspensions, that DEA made some allegations
16 that they were not fulfilling -- that
17 Cardinal was not fulfilling its role, and
18 that those allegations were something that --
19 that they directed through some kind of a
20 document that Cardinal agreed with to improve
21 their -- not improve, I guess. Go to a
22 different way of monitoring our customers.
23 That started -- that was the reason I was
24 hired.

25 Q. So -- and I'm a little

1 confused, because your main function at
2 Cardinal was the investigative side or site
3 visits related to pharmacies, right?

4 A. To run -- yes. To organize,
5 acquire and run a group of investigators,
6 yes.

7 Q. And so you said Mr. Moné gave
8 you the essentials related to your part of
9 this puzzle. So what were the actual
10 essentials that he gave you?

11 A. That I would need to know to do
12 what I needed to do. I didn't read the
13 document, so I'm not sure what pieces of that
14 he gave or didn't.

15 Q. So when you say he gave you the
16 essentials related to this memorandum
17 agreement, you really don't know what he gave
18 you from the memorandum agreement because you
19 never saw the document, right?

20 A. I never saw the document.

21 Q. Fair enough.

22 Did you ever ask to see the
23 document?

24 A. No.

25 Q. Why not? You had an

1 understanding at the time it was entered, and
2 I'll represent to you it was entered the
3 latter part of 2008, the time frame you would
4 have been at Cardinal, correct?

5 A. If that time frame is correct,
6 yes.

7 Q. You knew it was something that
8 Cardinal was doing to try to get in a
9 position to get its license to distribute
10 controlled substances back for these three or
11 four distribution centers, correct?

12 A. Correct.

13 Q. You knew at that point that
14 Cardinal, as you mentioned, was redoing, if
15 you will, the way it investigated -- or its
16 due diligence process, right?

17 A. Yes.

18 Q. So you never had the -- well,
19 let's back up.

20 In your role as an
21 investigator, information is power, right?

22 MR. PYSER: Object to form.

23 BY MR. FULLER:

24 Q. You need to have the right
25 information to conduct the appropriate

1 investigation. Can we agree on that?

2 A. The better the information, the
3 better the investigation.

4 Q. And generally, the more
5 information you have, the more of a full
6 picture you can get. Is that correct?

7 A. That would be correct.

8 Q. And so Cardinal had these
9 allegations levied against them by the United
10 States Government related to 25% of its
11 distribution centers related to the
12 inappropriate distribution of controlled
13 substances and entered an agreement with the
14 U.S. Government about what obligations it was
15 going to undertake, and you didn't have an
16 opportunity or weren't given the opportunity
17 to review any of those documents, right?

18 MR. PYSER: Object to form.

19 Misstates evidence.

20 A. The --

21 BY MR. FULLER:

22 Q. Were you given an opportunity
23 to review them? That's all I want to know.

24 A. I was not given. It didn't
25 have to be given. I wasn't given an

1 opportunity. I wasn't asked to read them.

2 Q. Did Mr. Moné -- well, there you
3 go. You were never asked to read them,
4 right? By Mr. Moné or Mr. Hartman or anybody
5 else at Cardinal, were you?

6 A. No.

7 Q. No one ever asked you?

8 A. No.

9 Q. Okay. Let's look at it, then.
10 Let's go to 4016, and I have my copy, I
11 think.

12 A. Is that page 16, sir?

13 Q. No, sir. This is a new
14 document.

15 A. Oh.

16 Q. We were on Document 4065. Now
17 we're going to 40 -- 4085, I'm sorry.

18 (Cardinal-Morse Exhibit 3
19 marked.)

20 BY MR. FULLER:

21 Q. Mr. Pyser made me start too
22 early in the morning. This is going to be
23 Plaintiffs' Exhibit 3, for the record.

24 Mr. Morse, P1-4016, if you look
25 at the first page, "Cardinal Health, Inc. vs.

1 Holder, Attachment 12 to the Defendants'
2 Opposition to Plaintiff's Motion for
3 Preliminary Injunction."

4 Do you see that?

5 A. I see it.

6 Q. That means a whole bunch of
7 gobbledegook to you, doesn't it?

8 A. Yes, sir, it does.

9 Q. All right. If you turn to
10 page 2. So it's Plaintiffs' Exhibit 3,
11 page 2. You got that?

12 A. Page 2.

13 Q. Now --

14 A. That's the page.

15 Q. -- I'll tell you so we can try
16 to short-circuit some of this, if you flip
17 back to page 11 and 12 and look at those, and
18 the only thing I want you to confirm is that
19 I was right and this was entered into the
20 latter part of 2008, I think it's September
21 of 2008. There's two pages because they
22 weren't signed together, they were signed
23 separately, between the Government and
24 Cardinal, Mr. Kerry Clark.

25 Do you see that?

1 A. Yes.

2 Q. And do you know who Mr. Kerry
3 Clark was during this time frame?

4 A. No.

5 Q. Do you not know that he was the
6 chairman and CEO of Cardinal Health?

7 A. No.

8 Q. So for at least my earlier
9 representation that the memorandum of
10 agreement was entered into in the latter part
11 of 2008, I was accurate on that, right? And
12 this would have been a time frame that you
13 were employed there.

14 A. Is this the memorandum of
15 understanding?

16 Q. Well, if you look at the second
17 page, it says "Settlement and Release
18 Agreement" --

19 A. Memorandum of Agreement, all
20 right.

21 Q. -- "and Administrative
22 Memorandum of Agreement."

23 Do you see that there?

24 (Document review by witness.)

25 A. Your question again?

1 BY MR. FULLER:

2 Q. I was right when I told you
3 earlier that this was entered in the latter
4 part of 2008 at a time you would have been
5 employed by Cardinal Health?

6 A. This document was entered
7 during that time, yes.

8 Q. And if you see in the
9 background -- and we're going to jump around
10 a few of these. It says, "Cardinal is
11 registered with the DEA at 27 facilities as
12 distributors" --

13 A. Where are we?

14 Q. I'm sorry, second page. The
15 background section.

16 A. Background, okay.

17 Q. Yes, sir. You there now?

18 A. I'm there.

19 Q. All right. And it says,
20 "Cardinal is registered with the DEA at
21 27 facilities as distributors of Controls II
22 through IVs, controlled substances under
23 provisions of the Comprehensive Drug Abuse
24 and Prevention Act of 1970."

25 Do you see that?

1 A. Yes.

2 Q. And then if you go to
3 Exhibit A, which is on page -- starts on
4 page 14, you'll see a listing on page 14 and
5 page 15 of the 27 distribution centers that
6 Cardinal operated during this time frame.

7 Do you see that there?

8 A. I see the list.

9 Q. Okay. And those were the
10 distribution centers that you had a role in
11 providing the anti-diversion supervision for,
12 correct?

13 MR. PYSER: Object to form.

14 A. No.

15 BY MR. FULLER:

16 Q. Those were not the distribution
17 centers in which you oversaw the
18 distributions -- I shouldn't say oversaw --
19 that you assisted with the delivery to
20 pharmacies to try to prevent anti-diversion?

21 A. These were the pharmacies that
22 were delivering prescription drugs, yes.

23 Q. And I just want to --

24 A. The answer -- the answer to
25 your question is yes. Not supervised these

1 facilities. Clear?

2 Q. And your answer, I just want to
3 make sure we're correct. It says "These were
4 the pharmacies." These weren't the
5 pharmacies; these were the distribution
6 centers --

7 A. I'm sorry.

8 Q. -- which shipped to pharmacies.
9 Is that right?

10 A. That's correct. That's
11 correct.

12 Q. Okay. I just want -- when
13 somebody is reading it in the record, I just
14 want to make sure that we're as accurate as
15 we can be.

16 A. If that was me, that was
17 misspoken.

18 Q. Okay. And if you go back to
19 page 4 of this document, you see the
20 "Obligations of Cardinal"?

21 A. Yes, I do.

22 Q. And before today, you have not
23 seen this. Is that right?

24 A. The MOU? This is the 2008 MOU
25 or MOA or whatever you call it.

1 Q. I know what you're talking
2 about. I mean, you testified earlier --

3 A. I do not recall ever seeing
4 this.

5 Q. Fair enough.

6 So under (a), it says,
7 "Cardinal agrees to maintain a compliance
8 program designed to detect and prevent the
9 diversion of controlled substances under the
10 CSA and applicable DEA regulations."

11 Do you see that?

12 A. Yes.

13 Q. Are you aware of what those
14 are, the CSA and applicable DEA regulations?

15 A. The DEA regulations, yes. The
16 CSA, I'm not sure I can point to a specific
17 section.

18 Q. What is your understanding of
19 the regulatory requirement upon Cardinal
20 because it chose to become a registrant
21 related to the prevention of diversion of
22 controlled substances?

23 MR. PYSER: Object to form.

24 BY MR. FULLER:

25 Q. Yeah, and that was a bad

1 question. Let me ask it differently.

2 No one forced it upon Cardinal
3 to become a registrant with the DEA, did
4 they?

5 A. I would assume not.

6 Q. Cardinal made a choice to
7 become a registrant and provide these
8 services that registrants can provide to
9 pharmacies and drugstores across the country,
10 correct?

11 A. Yes.

12 Q. I want to share a tidbit of
13 information and see if you had known this.

14 Did you know that Cardinal
15 strategically placed its distribution centers
16 so that it can cover most of the entire
17 United States of America within a 6-hour
18 drive from one of the distribution centers
19 somewhere around the country?

20 A. The first part of your question
21 was did I know? Not that rest of the
22 information, no.

23 Q. What did you know?

24 A. That they placed them where
25 they could be most efficient in the delivery

1 of the controlled substances -- of
2 prescription drugs.

3 Q. I think it was Mr. Hartman that
4 relayed to me that -- and there's some
5 overlap and there's some areas that it
6 doesn't quite work out, but they were
7 strategically placing them so they could get
8 anywhere --

9 A. Delivery.

10 Q. -- within a 6-hour drive.

11 A. That's important.

12 Q. So there you go, you learned
13 something new.

14 MR. PYSER: Object to form.

15 MR. FULLER: Well, it was new.

16 MR. PYSER: Just don't need the
17 commentary.

18 BY MR. FULLER:

19 Q. So Cardinal took on this
20 obligation under the Controlled Substances
21 Act when it became a registrant, correct?

22 A. Yes.

23 Q. And what I want to know from
24 Mr. Morse is, what is your understanding what
25 that obligation is under the CSA and the

1 applicable regulations?

2 A. As it applies to a compliance
3 program to prevent --

4 Q. Anti-diversion, yes, sir.

5 A. To detect and prevent.

6 Q. And whether you want to start
7 with the reg- --

8 A. It's three sentences.

9 Q. Three sentences, okay. Hold
10 on.

11 A. It's 21 CFR 1301.47(b), I
12 believe.

13 Q. 21 CFR -- go ahead.

14 A. 21 CFR 1301, I believe it's
15 .47(b).

16 Q. I think it's 74?

17 A. 74(b)?

18 Q. Yes, sir.

19 A. Thank you.

20 Q. And what's the requirement, to
21 your understanding, under 21 CFR 1301.74(b)?

22 A. The requirements for Cardinal
23 under that section?

24 Q. Yes, sir. Yes, sir.

25 MR. PYSER: Objection to this

1 line of questioning to the extent it's
2 a legal conclusion.

3 A. That rule is interpreted by
4 attorneys, I'm not an attorney, but from a
5 non-attorney standpoint, looks like the
6 obligation I see in that is to design and
7 operate a system to identify suspicious
8 orders, and, when identified, report those to
9 DEA. And I think it's a certain office,
10 geographically.

11 BY MR. FULLER:

12 Q. Okay. So it's your
13 understanding that the Code of Federal
14 Regulation under 1301.74(b), assuming I was
15 right and it's 74 and not 47 --

16 A. 74(b), that is correct.

17 Q. -- was to design and operate a
18 system to identify suspicious orders. That's
19 the first part of it, correct?

20 A. That's an obligation.

21 Q. Not only do we have to design
22 that system but we have to operate that
23 system, right?

24 A. Yes.

25 Q. Because you would agree with me

1 that it doesn't do any good to design it if
2 we're not going to operate it, correct?

3 A. Yes.

4 Q. Okay. And then when our system
5 identifies a suspicious order, we have to
6 report that order to, I think you're right,
7 the local DEA office.

8 A. Yes. It says field divisional
9 office or something like that.

10 Q. Something like that. But we
11 have to report it to someone at the DEA,
12 whatever the person is that's required,
13 correct?

14 A. A suspicious order has to be
15 reported to DEA.

16 Q. Okay. Do you know whether or
17 not Cardinal has an obligation to maintain
18 effective controls to prevent diversion of
19 controlled substances?

20 MR. PYSER: Object to form.

21 A. Where?

22 BY MR. FULLER:

23 Q. I'm asking you whether you know
24 or not.

25 A. Within their own facilities?

1 Absolutely. Within the pharmacies,
2 hospitals, doctors that we distribute to? I
3 don't see that in that rule.

4 Q. So under your --

5 A. Our responsibility is to have a
6 system, identify them and report them.
7 Suspicious orders.

8 Q. And when we talk about
9 suspicious orders, what is your understanding
10 of what a suspicious order is? Do you know?

11 A. My understanding of a
12 suspicious order? That's defined -- that's
13 defined in that rule in the last sentence.

14 Q. So there's no question about
15 what it is. Suspicious order is defined,
16 right?

17 A. It's defined. It's right
18 there.

19 Q. Orders of abnormal size,
20 pattern and frequency, correct?

21 A. Size, frequency and pattern,
22 yeah. I think it's size, pattern and
23 frequency is the proper order.

24 Q. And what we're looking for when
25 we talk about suspicious orders are orders

1 that could be diverted. We're looking for
2 suspicion of diversion, right?

3 A. No, we're looking for
4 suspicious orders as that's defined right
5 there.

6 Q. So we're not looking for orders
7 that potentially may be diverted. Is that
8 your testimony to the jury?

9 MR. PYSER: Object to form.

10 A. That's not my testimony to the
11 jury.

12 BY MR. FULLER:

13 Q. Well, so what are we looking
14 for when we're looking for suspicious orders?
15 Suspicious orders don't include orders that
16 may be diverted, or do they?

17 A. That rule is very specific. Of
18 unusual size, frequency, or deviating from
19 a -- substantially from a pattern. It's very
20 clear.

21 Q. No ambiguity in your mind,
22 right?

23 A. Those are the things we should
24 be looking for.

25 MR. PYSER: We've been going

1 about an hour. Let's take a break.

2 MR. FULLER: That's fine.

3 THE VIDEOGRAPHER: Okay. Off
4 the record at 9:13 a.m. This
5 concludes Tape 1.

6 (Recess taken, 9:13 a.m. to
7 9:27 a.m.)

8 THE VIDEOGRAPHER: All right,
9 stand by. All right. We're back on
10 the record at 9:27. This begins
11 Tape 2.

12 BY MR. FULLER:

13 Q. So, Mr. Morse, we just took a
14 break or just came back from a break, and I
15 think you and I were starting to discuss the
16 obligations upon Cardinal as it relates to
17 being a registrant for controlled substances,
18 correct?

19 A. I believe that's where we were.

20 Q. And you had explained to me
21 that under the Code of Federal Regulation,
22 Cardinal has obligations related to
23 suspicious orders which are orders of
24 abnormal size, pattern and frequency, whether
25 it's in that order or some other order,

1 correct?

2 A. Identifying suspicious orders,
3 and that's how it's defined in that
4 particular rule.

5 Q. And then I asked you about any
6 requirement to maintain effective controls
7 against diversion.

8 Do you remember that?

9 A. Yes.

10 Q. And you indicated -- well, let
11 me ask the question again because I'm not
12 sure that I recollect your full answer.

13 Does Cardinal have a regulatory
14 or statutory obligation to maintain effective
15 controls against diversion?

16 MR. PYSER: Object to form.

17 A. Yes.

18 BY MR. FULLER:

19 Q. And what is your understanding
20 of that obligation?

21 MR. PYSER: Object to form.

22 A. Section 1301.74(b).

23 BY MR. FULLER:

24 Q. And that's it?

25 A. There are other requirements, I

1 understand, with respect to Cardinal
2 protecting the controlled substances that are
3 within their facilities, which is outside my
4 realm.

5 Q. You have to speak up because I
6 can barely hear you. And we've got a --

7 MR. PYSER: Yeah, I think if
8 the folks on the phone --

9 MR. FULLER: Make sure you're
10 muting your phone. Sorry for
11 speaking --

12 MR. PYSER: We're getting a lot
13 of feedback from somebody's phone.

14 A. Where were we?

15 BY MR. FULLER:

16 Q. I apologize.

17 Maintaining effective controls
18 against diversion, you were referring to
19 vault security and things like that, correct?

20 A. Things well beyond what is
21 anti-diversion, so your question was very
22 broad. So yes, we do have responsibilities
23 in those areas.

24 Q. Fair enough.

25 So maintaining effective

1 controls against diversion, how does that
2 play into anti-diversion?

3 A. To anti-diversion? The
4 requirement, as I understand it, is spelled
5 out in that particular three-sentence rule.
6 It says we are to operate a system, plan --
7 design and operate a system to identify
8 suspicious orders, and then it defines
9 suspicious orders.

10 Q. So in your mind, as a director
11 of anti-diversion, maintaining effective
12 controls against diversion only means
13 complying with CFR 1301.74(b), correct?

14 A. That's my understanding of the
15 legal requirement but that would be a legal
16 question, I'm assuming. But that's how my --
17 my understanding would be that's the legal
18 requirement.

19 Q. Okay. And you mentioned
20 earlier, I think, and I just want to make
21 sure that we're on the same page, all right?
22 I think earlier you testified that there was
23 other issues of maintaining effective
24 controls outside of anti-diversion. Is that
25 correct? Sort of the physical security, for

1 example, of the distribution center?

2 A. Yes. That would be, again,
3 diversion from a Cardinal facility.

4 Q. But as it relates to
5 anti-diversion, the only requirement under
6 maintaining effective controls against
7 diversion is compliance with the suspicious
8 order requirements under the CFR?

9 MR. PYSER: Object to form.
10 Object to the line of questioning. It
11 calls for a legal conclusion. Wait,
12 wait for me to finish before you begin
13 your answer.

14 Go ahead. Go ahead.

15 THE WITNESS: Are you finished?
16 Okay.

17
18 A. That -- that rule is the rule
19 that we used, I used, in designing our
20 investigative process. That's --

21 BY MR. FULLER:

22 Q. That rule requires you to
23 report orders of abnormal size, pattern and
24 frequency. Is that right?

25 A. Suspicious orders of size --

1 unusual size, pattern or deviating from the
2 frequency. Yes, I would say that's exactly
3 what it says.

4 Q. Okay.

5 MR. PYSER: Sorry.

6 (Discussion off the
7 stenographic record.)

8 BY MR. FULLER:

9 Q. Okay. So going back to 4016 on
10 page 4, in the agreement that Cardinal
11 entered with the U.S. Government says that
12 "Cardinal agrees to maintain a compliance
13 program designed to detect and prevent
14 diversion of controlled substances as
15 required under the CSA" -- you know that as
16 the Controlled Substance Act, is that
17 correct, Mr. Morse?

18 A. I do.

19 Q. -- "and applicable DEA
20 regulations." Right?

21 A. Yes.

22 Q. It's not both or one or the
23 other, is it?

24 A. The DEA -- that's correct, what
25 it says.

1 Q. It says both. It says "the CSA
2 and applicable DEA regulations." Did I read
3 that correctly?

4 A. You did.

5 Q. That's what Cardinal agreed to,
6 at least according to this document. And you
7 hadn't seen that before I showed it to you
8 today. Is that fair?

9 A. I don't remember ever having
10 reviewed it.

11 Q. Okay. Now, there's some other
12 agreements, but let's go to section (f),
13 which is on the next page.

14 A. In this same section?

15 Q. Yes, sir.

16 A. Obligations?

17 Q. So you see there it says,
18 "Cardinal agrees within 180 days of the
19 Effective Date of this Agreement," which we
20 know it was signed in September of '08,
21 correct?

22 A. This was in '08. I'm sorry,
23 I've got to refresh my memory here.

24 Q. Fair enough.

25 A. It was in '08, that's correct.

1 Q. September of '08, right?

2 A. Yes.

3 Q. Okay. It says that "Cardinal
4 agrees within 180 days of the Effective Date
5 of this Agreement it will review
6 distributions of oxycodone, hydrocodone,
7 alprazolam and phentermine to retail
8 customers and pharma- -- excuse me -- and
9 physicians for the 18-month period
10 immediately preceding the execution of this
11 Agreement and identify any current customer
12 whose purchases of oxycodone, hydrocodone
13 alprazolam and phentermine exceeded the
14 thresholds established in its compliance
15 program on the date of such -- excuse me --
16 on the date of such review."

17 Do you see that?

18 A. I see that.

19 Q. Are you aware of whether
20 Cardinal did that?

21 A. I am not aware. I believe that
22 there were others responsible for that.

23 Q. You weren't responsible for
24 this to the best of your recollection,
25 correct?

1 A. No.

2 Q. And what this -- if we go on,
3 it says, "To the extent it has not otherwise
4 done so, Cardinal shall conduct an
5 investigation for each customer where such
6 review reveals purchasing patterns
7 substantially deviating from the normal
8 purchasing patterns."

9 Do you see that?

10 A. Yes.

11 Q. And that's part of the
12 definition of "suspicious order," isn't it?
13 Size, pattern and frequency, correct?

14 A. Please. That's one of the
15 elements, yes.

16 Q. Okay. So what Cardinal was
17 required to do, and I know at least according
18 to you, you weren't involved, is that from
19 September of '08 they were to look back 18
20 months, which I think we can agree would take
21 us to sometime about March of '06, right?

22 A. If the math is right.

23 Q. And I do struggle with math.
24 But it would take us back to March of '06 for
25 our look-back where we have to review our

1 customers for threshold breaches and
2 suspicious orders, right?

3 A. Threshold breaches?

4 Q. Yes, sir. It says --

5 A. Exceeds the thresholds, right.

6 Q. -- "exceeds the thresholds" and
7 then review them for patterns substantially
8 deviating from normal purchasing patterns --

9 A. Correct.

10 Q. -- which would be suspicious
11 orders.

12 A. Correct.

13 Q. And then we need to take the
14 appropriate action as required by this
15 agreement.

16 Do you see that section there?

17 A. I see that.

18 Q. Okay. But you don't have any
19 recollection and no one provided you with any
20 of this information, if it was done, correct?

21 A. In my role, no.

22 Q. Okay. Let's turn to page 31 of
23 that same document.

24 And to your recollection,
25 Mr. Morse, you haven't seen any of the

1 immediate suspension orders or the order to
2 show cause that was issued here in Stafford,
3 Texas, correct?

4 A. Not that I recall.

5 Q. Okay. And you don't know any
6 of the facts relating to those allegations
7 either, do you?

8 A. Not that I recall.

9 Q. In prepping for your
10 deposition, did you look at any of these
11 documents that are in front of you? And by
12 "these documents," I mean this 2008
13 memorandum agreement and the attachments
14 thereto.

15 MR. PYSER: Object to form.
16 I'm going to instruct you not to
17 answer the question. You can't ask
18 the witness what he reviewed with
19 counsel.

20 MR. FULLER: I didn't ask if he
21 reviewed it with counsel. I just
22 asked if he reviewed it prior to his
23 deposition. And I think I'm allowed
24 to ask that question.

25 MR. PYSER: To the extent you

1 reviewed any documents outside of
2 instructions from counsel or with
3 counsel, you can answer the question.

4 A. No.

5 BY MR. FULLER:

6 Q. No, you did not?

7 A. I did not.

8 Q. Okay. So if you're on page 31,
9 this is -- it was issued January 30th, 2008.

10 Do you see that stamp on it?

11 A. I do.

12 Q. And it's in the matter of
13 Cardinal Health, and it gives the address in
14 Stafford, Texas. Are you aware of where
15 Stafford, Texas is, Mr. Morse?

16 A. Yes, roughly.

17 Q. Okay. And it says "Order to
18 Show Cause." Do you see that?

19 A. Yes.

20 Q. And if you go down to number 2
21 in the allegations or the facts, it says,
22 "Registrant distributed massive amounts of
23 particular controlled substances to retail
24 pharmacy customers without maintaining
25 adequate controls to detect or prevent the

1 diversion of controlled substances."

2 Do you see that there?

3 A. I see that.

4 Q. Now, you agree, would you not,
5 that Cardinal has an obligation to maintain
6 effective controls or maintain adequate
7 controls to detect and prevent the diversion
8 of controlled substances, don't you?

9 MR. PYSER: Object to form.

10 A. They're required to follow the
11 requirements of that particular -- as that
12 relates to that particular regulation.

13 BY MR. FULLER:

14 Q. So only identifying suspicious
15 orders, according to Mr. Morse. Right?

16 MR. PYSER: Object to form.

17 A. Re- -- you said only
18 identifying. No.

19 BY MR. FULLER:

20 Q. Identifying --

21 A. Identifying and reporting.

22 Q. -- and reporting suspicious
23 orders. So let me make sure that we're on
24 the same page and the jury understands.

25 According to Mr. Morse's

1 understanding, Cardinal has no obligation
2 under that regulation to prevent the shipment
3 of suspicious orders, or do they?

4 MR. PYSER: Object to form.

5 A. That doesn't talk about
6 shipment.

7 BY MR. FULLER:

8 Q. Okay. Do you believe that, in
9 your role as a director of anti-diversion,
10 that maintaining effective controls against
11 diversion would include shipping orders that
12 have been deemed to be suspicious?

13 MR. PYSER: Object to form.

14 A. My understanding was there was
15 a change in DEA guidance.

16 BY MR. FULLER:

17 Q. I'm not asking about a change
18 in DEA guidance. I'm asking Mr. Morse --

19 A. Then I'll rely on the rule.

20 Q. You'll rely on what?

21 A. 21 CFR 1304 -- 1301.74.

22 Q. And based on that reading,
23 Mr. Morse's reading of that Code of Federal
24 Regulation, Cardinal did not have an
25 obligation to stop a shipment of a suspicious

1 order that could be diverted, correct?

2 MR. PYSER: Object to form.

3 Calls for a legal conclusion.

4 You can answer.

5 THE WITNESS: I can answer?

6 The definition of suspicious
7 order, once an order was determined to
8 be suspicious, Cardinal Health
9 reported it.

10 BY MR. FULLER:

11 Q. Did Cardinal still ship it?

12 A. No.

13 MR. PYSER: Object to form.

14 A. Not while I was there.

15 BY MR. FULLER:

16 Q. So under your time frame there,
17 as of at least February-March of 2008, it's
18 your understanding that Cardinal did not
19 ship --

20 A. It's my understanding that they
21 stopped shipment when it was determined that
22 we have a -- have suspicious orders.

23 Q. Prior to your time there, do
24 you know whether they shipped suspicious
25 orders?

1 A. I can't speak to times before I
2 was there.

3 Q. Do you not --

4 MR. PYSER: Object to form.

5 BY MR. FULLER:

6 Q. Did you not ask anybody what
7 the process was before your arrival or what
8 they were doing when you arrived?

9 A. I think it was -- might have
10 been mentioned to me, but it was not germane
11 to the process that I was asked to be
12 involved with.

13 Q. And that was the investigation
14 of pharmacies around the country, correct?

15 A. As assigned.

16 Q. When you say "as assigned,"
17 meaning whichever ones you are assigned to go
18 visit?

19 A. Yes.

20 Q. Okay. So let's turn to the
21 next page, page 32. Have you ever heard of
22 Richmond Pharmacy here in Texas?

23 A. Which number are we?

24 Q. Number 7 on that page.

25 A. 7, okay.

1 Q. Richmond Pharmacy, have you
2 ever heard of that?

3 A. It does not ring a bell.

4 Q. Okay. And again, this is
5 before your arrival and this is the earlier
6 memorandum agreement and immediate suspension
7 order, right?

8 A. Correct.

9 Q. Okay. And Cardinal got this in
10 January of 2008, shortly before you began
11 your position with Cardinal, right?

12 A. That's what the document shows,
13 yes.

14 Q. Okay. So number 7, "From
15 January 2nd, 2007 through September 11th,
16 2007, Registrant," meaning Cardinal,
17 "distributed approximately 1,381,500 dosage
18 units of hydrocodone to Richmond Pharmacy, or
19 approximately 160,000 dosage units each
20 month."

21 Is that -- based on your
22 experience, is that number abnormally large?

23 A. Without the context, I cannot
24 answer that question.

25 Q. And with context, you'd need to

1 know the size of the pharmacy and the type of
2 the pharmacy, right?

3 A. Among -- among others, yes.

4 Q. What other things would go into
5 determining it?

6 A. At this time, I don't know what
7 they used.

8 Q. I'm not asking at this time.
9 I'm asking Mr. Morse -- I asked you if this
10 is abnormally large. You said you need
11 context --

12 A. I can't tell in this time --

13 Q. Hold on, let me finish my
14 question.

15 A. Pardon me.

16 Q. You said you needed context and
17 I think I threw out there we need to know the
18 size of the pharmacy and the type, meaning
19 whether it's a retail, chain, hospital,
20 whatever, right? Those are some of the
21 things that are considered when setting
22 thresholds for different types of pharmacies,
23 correct?

24 A. Setting thresholds? Setting of
25 thresholds was not done by my unit and my --

1 so I'm not sure exactly what all goes into
2 that. I can't speak to it.

3 Q. Okay. When you did your
4 investigations, some of the things you looked
5 at is the type and the size of the pharmacy,
6 correct?

7 A. Yes.

8 Q. Okay.

9 A. After this time.

10 Q. Yeah, I don't care about time
11 frames right now. All right?

12 A. I do.

13 Q. Well, let me ask you, was there
14 some significant change in pharmacies and
15 illicit drug use on the street that would
16 have changed what should be considered when
17 investigating a pharmacy?

18 MR. PYSER: Object to form.

19 A. Not that I can think of at this
20 point.

21 BY MR. FULLER:

22 Q. Okay. So Mr. Morse is going to
23 go investigate this pharmacy and he was going
24 to want to know the type of pharmacy,
25 correct?

1 A. That would be one of the
2 things, yes.

3 Q. Size of the pharmacy, right?

4 A. Yes.

5 Q. And you can base size on a
6 couple of different things. You can base it
7 on number of scripts, dollars. What did you
8 normally utilize when you're looking at the
9 size of the pharmacy?

10 A. You're asking me to comment
11 on --

12 Q. No, sir, right now --

13 A. -- as I understand, this
14 section -- are you talking about my time or
15 the time in 2007?

16 Q. Sir, I'm asking Mr. Morse --
17 listen to my question. I'm asking if
18 Mr. Morse is going to go do an investigation,
19 I want to know what you would be looking at.
20 Okay? What Mr. Morse would be looking at.

21 How many investigations have
22 you done over the years? Hundreds, right?

23 A. I've done quite a few.

24 Q. Maybe even thousands.

25 A. Me personally, no. I ran the

1 team.

2 Q. Can we stick with hundreds?

3 A. I ran the team, yes.

4 Q. Fair enough.

5 So I want to know what

6 Mr. Morse would look at. We talked about the

7 type of pharmacy, and you agreed with that.

8 We talked about the size, and I asked you

9 specifically what factor did you use to

10 determine size; and your answer is?

11 A. To determine size. There are

12 sev- -- let me ponder that for a moment.

13 We can get an indication of

14 size by what we sell to the customer, which

15 may or may not be complete -- complete what

16 the customer receives; the quantity or number

17 of prescriptions dispensed by the pharmacy,

18 which has to be self-reported; the -- when

19 we're on site, we can take a look at the

20 operation itself, how the pharmacy is run,

21 and what type of pharmacy it is, which would

22 help us determine the size and quantity that

23 they would need.

24 So the question was

25 specifically how would I determine the size.

1 Those would be some of the indicators.

2 Q. Okay. And you're well aware
3 that you can request from a pharmacy a drug
4 utilization report, right?

5 A. Yes. You can request from the
6 pharmacy.

7 Q. Sure. And one of the red flags
8 in your industry is if they don't provide you
9 the information that you requested, it sets
10 off a red flag. Correct?

11 A. It would be an area of concern.

12 Q. The policy and procedure --

13 A. Yes.

14 Q. -- at Cardinal was to get drug
15 utilization reports.

16 A. Yes.

17 Q. It was one of the things that
18 you required from most of your pharmacies.
19 Right?

20 A. During my tenure, yes.

21 Q. Because you want to know -- one
22 of the things we try to prevent is
23 distributor shopping, from them using
24 multiple distributors to get more than they
25 may need or may should have, correct?

1 A. We can't get insight into other
2 distributors. I'm not sure where -- how you
3 can -- from information of a dispensing
4 report, how you can determine where the drugs
5 came from.

6 Q. Well, let me ask you this: We
7 have Mike's Pharmacy you've been servicing
8 for a year, and you get a drug utilization
9 report and they've dispensed 50,000 oxycodone
10 in the past month but you've only distributed
11 them 10,000. That would be a good indication
12 they're getting oxycodone from somewhere
13 else, right?

14 MR. PYSER: Object to form.

15 BY MR. FULLER:

16 Q. You're the investigator.

17 A. Yes.

18 Q. You're not going to let that
19 one get by you, are you?

20 A. Yes, you're correct.

21 Q. Okay. So we can get an idea
22 from this information if they are distributor
23 shopping or using more than one distributor,
24 right?

25 A. Provided the information

1 they've given to us in the report is
2 accurate.

3 Q. Absolutely. And that's part of
4 your job is to make sure you're getting the
5 best information you can.

6 A. To request and try to get
7 the -- yes. Yes.

8 Q. Absolutely.

9 A. But they -- the -- in the final
10 decision of what we receive, that rests in
11 the hands of that customer.

12 Q. Sure. Sure.

13 A. What they actually provide.

14 Q. All right. So when we're
15 trying to determine size, we can look at the
16 drug utilization report, we can look at the
17 sales to Cardinal, if they have a sales
18 history with Cardinal, right?

19 A. If they have a sales history.

20 Q. What else do we want to know?

21 A. With respect to?

22 Q. Looking at a pharmacy, for
23 investigating a pharmacy.

24 A. May I get clarification on the
25 question? Are you asking what are the things

1 we try to look for in the entire
2 investigation, or are we just strictly
3 talking here about size?

4 Q. Well, we started --

5 A. You started on size.

6 Q. -- by talking about the huge
7 amount of distribution that was going into
8 Richmond Pharmacy.

9 A. Uh-huh.

10 Q. And we talked about what we
11 would need to know and we talked about that
12 we would need to know the type of pharmacy.
13 We've talked about size, and now we
14 rabbit-trailed into size a little bit to
15 determine what factors we could consider when
16 we're looking at the size to try to figure
17 out the size, right?

18 A. Yep.

19 Q. And we talked about drug
20 utilization reports, we talked about the
21 sales to Cardinal, that kind of stuff,
22 correct?

23 A. We're asking me about
24 information that I did during -- and was
25 required of my investigators during my time.

1 Q. Yep.

2 A. And trying to relate it back in
3 2007, and I don't know exactly what they did
4 in 2007. I'm assuming they did some of that,
5 but that's a total assumption and I have no
6 earthly idea. Excuse me. No idea.

7 Q. Mr. Morse, did you hear one
8 question where I asked you what they did in
9 2007?

10 A. You premised it -- you premised
11 it on this.

12 Q. Hold on. But did I ask you
13 what Cardinal did in 2007?

14 MR. PYSER: Object to form.

15 BY MR. FULLER:

16 Q. I have not.

17 MR. PYSER: Object to form.

18 BY MR. FULLER:

19 Q. If you'll listen to my
20 question, this will go more smoothly and
21 we'll get out of here earlier. But if you
22 rephrase my question a different way, that
23 doesn't work so well because then we're
24 not -- you're not answering what I'm asking.

25 So I'm asking what Mr. Morse

1 would do. Now, you didn't come into the
2 position until 2008. Completely understand
3 that. You've made that abundantly clear, so
4 you can stop giving me the speech of "I
5 wasn't there in 2007, I don't know what
6 Cardinal did in 2007." I get it.

7 But your job was an
8 investigator less than, I don't know, six
9 months, a year, so the pills going, at least
10 according to this, into Richmond ended in
11 September. You were in your role less than
12 six months into the future, right?

13 MR. PYSER: Object to form.

14 A. I was in my role six months
15 into the future?

16 BY MR. FULLER:

17 Q. Yeah. You started with
18 Cardinal in six, seven, eight months --

19 A. Right.

20 Q. -- from then, right?

21 A. Yeah. I had to build an
22 investigative team. We didn't have any
23 investigators. We were working on it.

24 Q. Well, fair enough. You would
25 agree that Cardinal didn't have an

1 investigative team when you started. It was
2 something that you had to build, correct?

3 A. I don't know what they did
4 before. They had a system. They were
5 reviewing pharmacies and they were visiting
6 pharmacies. I was asked to build a different
7 team.

8 Q. So, Mr. Morse, are you changing
9 your testimony, and I'm reading it off the
10 record, that "We didn't have any
11 investigators, we were working on it"?

12 MR. PYSER: Object to form.

13 A. Misspoken.

14 BY MR. FULLER:

15 Q. So you're changing your
16 testimony here. That's fine, go ahead.

17 A. It was mis -- it was a
18 misspeak.

19 Q. So you had investigators?

20 A. During my time, we were working
21 on putting together an investigative team. I
22 did not have anybody come over from the
23 previous investigative team.

24 Q. Do you know if there was a
25 previous investigative team?

1 A. They had individuals that
2 visited pharmacies. They had a program.
3 They had a process. How it worked, how many
4 they had, I do not know.

5 Q. So do you even know if they had
6 investigators?

7 A. They had people that visited
8 pharmacies.

9 Q. Not my question.

10 A. I know that.

11 Q. I didn't ask that. I asked if
12 they had investigators.

13 A. I don't know the term.

14 MR. PYSER: Object to form.

15 A. I don't know what they were
16 called.

17 BY MR. FULLER:

18 Q. All right. So, Mr. Morse, what
19 would Mr. Morse do next in investigating a
20 pharmacy? We've talked about the type of
21 pharmacy, we've talked about the size.
22 What's next?

23 A. Our role was to gather
24 information that was reviewed by others. We
25 would be trying to gather information about

1 the pharmacy, including the size. We'd want
2 to take a look at the pharmacy's location,
3 what's the availability of healthcare
4 physicians, prescribers. We'd want to take a
5 look at the pharmacy's practices, the type of
6 pharmacy; is it a specialty pharmacy, is it a
7 clinic pharmacy, is it a community pharmacy
8 with sundries and everything else.

9 We'd want to take a look at, to
10 the extent we can, who the patients are, and
11 to the extent we can, where they come from.
12 We want to take a look at who the physicians
13 are that are prescribing the prescriptions
14 that are being dispensed by that pharmacy.

15 Q. Sort of main prescribers?

16 A. We're looking to see where
17 they're from.

18 Q. Are you looking at anything
19 else? Just where they're from?

20 A. We would request of the
21 pharmacist -- at different times we requested
22 of pharmacists who their principal
23 prescribers were of controlled substances.

24 Q. And you would do research on
25 those principal prescribers on some

1 occasions, correct?

2 A. On some occasions.

3 Q. And that's an important part of
4 collecting the information, right?

5 A. At times, that was considered
6 an important part.

7 Q. So, again, I guess it goes back
8 to what we started with at the beginning.
9 You wanted to gather as much information as
10 you can on different areas of the pharmacy's
11 operations, and assuming that the pharmacy
12 will cooperate and provide some of that
13 information to you, as well as doing outside
14 searches, like you mentioned, wanting to know
15 where the patients are from. You can look at
16 the car tags in the parking lot, right?

17 A. Snapshot in time, yes.

18 Q. You can -- if you find out the
19 prescribers, you can do Google searches on
20 the prescribers, correct?

21 A. Yes.

22 Q. You can run Google searches in
23 the local newspaper to find out if there's
24 been anything going on that may give any sort
25 of concern related to that particular

1 pharmacy, correct?

2 A. Not something that we normally
3 did.

4 Q. But you did it?

5 A. On occasion.

6 Q. Right. I mean, it's an avenue,
7 and again, if the circumstances call for it,
8 you're going to utilize that.

9 A. Exactly, if the circumstances
10 call for it.

11 Q. Fair enough. Fair enough.

12 So if we go on back to 4016, it
13 starts -- about halfway through the paragraph
14 at the end of the line, it starts "Registrant
15 distributed 66,000 doses."

16 Do you see that? "Registrant
17 distributed 66,000 dosage units of
18 hydrocodone to Richmond Pharmacy on
19 September 4, 2007."

20 Do you see where I'm at,
21 Mr. Morse?

22 A. Yes.

23 Q. 6,000 dosage units on
24 September 5th, that would be the next day,
25 correct? 4th and then the 5th, right?

1 A. Yes.

2 Q. 12,000 dosage units on
3 September 6, 2007; 18,000 dosage units on
4 September 7th; then 48,000 dosage units on
5 September 10th; 24,000 dosage units on
6 September 11th; 12,000 dosage units on
7 September 12th. That's a significant amount
8 of hydrocodone going into one pharmacy.

9 Can we at least agree to that?

10 MR. PYSER: Object to form.

11 A. Without knowing the
12 circumstances surrounding that pharmacy, I
13 cannot really make a judgment on the
14 quantities going into that pharmacy.

15 BY MR. FULLER:

16 Q. Sure. Well, we know -- let's
17 do the math the best we can real quick.

18 A. Yeah, it's a large quantity.

19 Q. So it's 70 -- so 66 and 60
20 gives us 72,000, right? Plus another 12 gets
21 us 84,000, plus another 18 gives us 102,000
22 dosage units. Then we add 48,000 to that so
23 that's 150,000 dosage units, and 24 and 12 is
24 36. So we've got 186,000 dosage units of
25 hydrocodone into one pharmacy within less

1 than a week. Right?

2 A. That's what that appears to
3 show.

4 Q. Seems on the high side. Can we
5 agree?

6 A. That's what that appears to
7 show.

8 Q. Can we agree that what it shows
9 is that the amount of dosage units going into
10 Richmond Pharmacy within a week is on the
11 high side?

12 A. It would be of -- something
13 that would need to be checked.

14 Q. It would at least send up a red
15 flag and deserve an investigation, correct?

16 MR. PYSER: Object to form.

17 A. Resulting in an investigation?
18 It would be resulting in it being reviewed.
19 I'm not sure at that time whether that
20 involved an investigation.

21 BY MR. FULLER:

22 Q. Whether it required a site
23 visit investigation may be a different story,
24 but at least an investigation as to why.

25 A. It would be reviewed, yes.

1 MR. PYSER: Object to form.

2 BY MR. FULLER:

3 Q. How does a review -- what is a
4 review, when you say "review"? Tell the jury
5 what you mean by "review."

6 A. At that time?

7 Q. No, sir. I mean your
8 terminology of "review" during your time when
9 you worked at Cardinal. What did "review"
10 mean to you?

11 A. It passed up -- it was somebody
12 else's area of responsibility to review.

13 Q. So you don't know what a review
14 entailed.

15 A. The review of the dosage units
16 and the amount they go out to it, the setting
17 of thresholds, not within my area.

18 Q. Well, you said it deserved a
19 review.

20 A. Yes. And I think it would
21 deserve a review, yes. Who did it, what is
22 entailed, I do not know.

23 Q. Would something like that
24 deserve a review or investigation from your
25 people? Maybe not all the way going out to a

1 site visit, but at least some looking into.

2 MR. PYSER: Object to form.

3 A. My people were investigators
4 on-site.

5 BY MR. FULLER:

6 Q. Okay. So all your people did,
7 including yourself, was investigations
8 on-site, right?

9 A. When they were assigned.

10 Q. And who sent you? Who would
11 send you?

12 A. Who would send us?

13 Q. Yeah.

14 A. Well, I would send my
15 investigators. The orders or requests to
16 visit these pharmacies was sent to me by the
17 group that reviewed thresholds.

18 Q. So Mr. Moné's people, right?

19 A. Yes.

20 Q. And I guess --

21 A. I'm a Mr. Moné person too, but
22 it would not include what we were doing.

23 Q. Right. Others of Mr. Moné's
24 people.

25 A. Exactly.

1 Q. Could Mr. Hartman request you
2 look into a facility?

3 A. It would have come through
4 Michael, but yes.

5 Q. Okay. What about -- do you
6 know a Gilberto -- and help me out with his
7 last name, starts with a Q. I just refer to
8 him as GQ.

9 A. I know who -- Quintero.

10 Q. Quintero.

11 A. I know him, and at this time --

12 Q. He wasn't there, I'm aware.
13 I'm not asking if he was.

14 A. Yes, he could -- it would go
15 through Michael, though.

16 Q. But he could also request a
17 review, right? If something got brought to
18 his attention that caused some sort of
19 concern?

20 A. Anyone within the company that
21 was aware of some concern could voice that up
22 and that'd go to the person who feels like
23 that that would need to be a request and the
24 authority to request a visit, then it would
25 happen. Go through Michael Moné.

1 Q. Okay. Fair enough. Fair
2 enough.

3 All right. So let's set that
4 document aside for the moment and go back
5 to --

6 MR. PYSER: If you're changing
7 gears, let's just take a two-minute
8 break.

9 MR. FULLER: We never do two
10 minutes, but we'll take a break
11 anyway.

12 MR. PYSER: We'll do our best
13 effort.

14 THE VIDEOGRAPHER: Off the
15 record at 10:05.

16 (Recess taken, 10:05 a.m. to
17 10:11 a.m.)

18 THE VIDEOGRAPHER: All right,
19 stand by. Okay. We're back on the
20 record at 10:11.

21 BY MR. FULLER:

22 Q. Okay. So let's go to page 12
23 of Exhibit 2. See, looky there, Mr. Pyser is
24 keeping them in order for you.

25 MR. FULLER: Good job,

1 Mr. Pyser.

2 A. I was doing it.

3 BY MR. FULLER:

4 Q. Although he's not reminding you
5 to take off your microphone. Now he's
6 batting 500, which is still great. I mean,
7 you'll still get into the Hall of Fame.

8 A. You said page 12 of Exhibit 2.

9 Q. Actually, let's go to page 11,
10 the page before.

11 A. Okay. Let me refamiliarize
12 myself with the time frames of this. This
13 was February 2012. And this is the
14 pre-hearing statement, okay.

15 Q. Yeah. Are you still working at
16 Cardinal now, Mr. Morse?

17 A. No.

18 Q. When did you leave?

19 A. I retired -- my last day was
20 the end of January 2017.

21 Q. Okay. And what was your
22 position right before you retired?

23 A. I'm not sure I really had a
24 title that I used, but I was working in a
25 different area from the anti-diversion

1 controlled substance area and I was visiting
2 the wholesalers that we sell to for
3 compliance with an agreement that we get them
4 to sign at the beginning.

5 Q. So a price diversion issue?

6 A. It had some elements of that,
7 yes.

8 Q. Fair enough.

9 A. But the --

10 Q. I'm sure we'll get to it.
11 We've got a lot of time, you and I.

12 All right, Mr. Morse, our
13 Document 4085, page 11, do you see that at
14 the bottom?

15 A. Page 11, you said.

16 Q. Yes, sir.

17 A. Okay. "Notice to Cardinal
18 Health of Diversion Problem."

19 Q. "Problem," right? Is that what
20 it says?

21 A. That's what it says.

22 Q. All right. So let's turn to
23 the next page. It says, "At the time of
24 initial investigation, Respondent's," which
25 means Cardinal's, right?

1 A. Yes. Let me look back to the
2 date on this. Okay.

3 Q. -- "Cardinal's top four
4 pharmacy customers were Holiday CVS, LLC,
5 doing business as CVS Pharmacy 219," and it
6 gives the address, "Gulf Coast Pharmacy,"
7 then gives the address, then "Holiday
8 CVS, LLC," which d/b/a is CVS Pharmacy 5195,
9 then gives the address, "and CareMed
10 Healthcare Corporation, doing business as
11 Brooks Pharmacy, located in Bonita Springs,
12 Florida."

13 Do you recollect that being
14 Cardinal's top four customers in Florida
15 during a period of time?

16 A. It's not something that I would
17 be aware of necessarily.

18 Q. Okay.

19 A. I don't recall it.

20 Q. You have no reason to disagree
21 with that, correct?

22 A. I have no reason to disagree
23 with it.

24 Q. Fair enough.

25 It says that "DEA has

1 communicated to Cardinal Health that it is
2 required to conduct its own due diligence on
3 its retail pharmacy chain customers."

4 Do you see that?

5 A. Yes.

6 Q. Now, Cardinal Health did
7 different due diligence on the retail chains
8 than it did retail independents, correct?

9 A. Some of them.

10 Q. Particularly -- let's try CVS.
11 How many CVSs did you visit in 2008?

12 A. I visited none.

13 Q. How many CVSs did you visit in
14 2009?

15 A. I visited none.

16 Q. How many CVS --

17 A. Visit? A visit, you're saying?

18 Q. Investigative visit.

19 A. Investigative visit.

20 Q. On-site investigation.

21 A. My team --

22 Q. No, you.

23 A. Me?

24 Q. I want to know you.

25 A. Me? No, I don't remember

1 visiting any CVSs.

2 Q. How about in 2011, did you
3 visit any CVSs --

4 A. Not that I recall.

5 Q. -- for on-site investigation?

6 A. Not that I recall.

7 Q. Okay. It says, "Specifically,
8 on July 28, 2009, DEA conducted a compliance
9 review of Cardinal Health's distribution
10 center located in Peabody, Massachusetts."

11 You know that Cardinal had a
12 Peabody, Massachusetts distribution center.
13 Is that right?

14 A. Yes.

15 Q. "DEA investigators asked the
16 distribution center for due diligence files
17 for a number of chain pharmacies, but
18 Cardinal Health could not produce the
19 requested due diligence files. Consequently,
20 investigators spoke with Michael Moné,
21 Quality and Regulatory Affairs Vice
22 President, Anti-Diversion & Supply Chain
23 Services, Dublin, Ohio, via teleconference.

24 "During the teleconference,
25 Mr. Moné stated that Cardinal Health

1 communicated with the loss prevention
2 individuals of chain pharmacies when an order
3 is approaching or exceeding set thresholds
4 and maintains e-mail communications -- or
5 maintains e-mails of the communications."

6 Do you see that?

7 A. I see it.

8 Q. And that was the practice of
9 Cardinal during this time frame, right? Is
10 to go through loss prevention and not conduct
11 independent site visits for these chain
12 pharmacies, particularly CVS.

13 A. CVS, yes.

14 Q. Okay. Now, let me ask you,
15 because Cardinal differentiated between
16 retail independents and chain pharmacies,
17 right?

18 A. I can't categorically say that
19 for all chain pharmacies.

20 Q. Well, that was going to be my
21 next question. What -- what was a criteria
22 for being considered a chain pharmacy versus
23 a retail independent? Do you know?

24 A. I do not know what Cardinal was
25 using to differentiate that.

1 Q. Okay.

2 A. I don't know.

3 Q. Fair enough.

4 Continuing on, it says, "DEA
5 Staff Coordinator Michael" -- Arapino? No,
6 there's no N in it. "DEA Staff Coordinator
7 Michael Arpaio communicated to Mr. Moné that
8 due diligence investigations must be
9 performed on all customers and chain
10 pharmacies -- chain pharmacies included, when
11 it appears that suspicious high-volume orders
12 are requested of controlled substances, and
13 questionnaires should be sent to the chains."

14 Do you see that?

15 A. I see that.

16 Q. Okay. Now, particularly CVS,
17 Cardinal was not going to the pharmacies
18 themselves and not sending out these
19 questionnaires. Cardinal was relying on loss
20 prevention within CVS to do the due diligence
21 and report back to Cardinal, correct?

22 MR. PYSER: Object to form.

23 A. That states that due diligence
24 investigations must be performed on all
25 customers.

1 BY MR. FULLER:

2 Q. Yes. My question to you is
3 that Cardinal was not doing the due diligence
4 investigations on CVSs. They were relying on
5 loss prevention department within CVS to do
6 that and report back, correct?

7 A. Okay.

8 MR. PYSER: Object to form.
9 You can answer.

10 A. I don't believe that to be the
11 case.

12 BY MR. FULLER:

13 Q. Okay. Let's go to 4030.

14 A. I'm sorry? Is there another
15 document?

16 Q. Yep.

17 A. Oh, I'm sorry.

18 (Cardinal-Morse Exhibit 4
19 marked.)

20 BY MR. FULLER:

21 Q. And if you'd turn to page 2 of
22 this document, it appears to be an e-mail
23 chain. Do you see at the bottom of that
24 page, Mr. Paul Farley e-mails Mr. Moné? This
25 is at September 30th, 2010, correct?

1 A. That's the date.

2 Q. And it says, "Michael, I'll
3 continue to try to reach you by phone but
4 wanted to recap my conversations with CVS
5 this morning.

6 "I spoke with Brian Whalen at
7 CVS a couple of times this morning regarding
8 Store 219 and other locations you referenced
9 at NACDS. I also reviewed your slides with
10 him. He tells me that he responded to
11 Cardinal last March on inquiries for these
12 same stores. At that time, CVS experienced
13 an increase in sales of oxycodone due to DEA
14 closing stores in the area. Again, earlier
15 this week, because of our request, he sent
16 another e-mail to LP" -- and I'll represent
17 to you it's loss prevention -- "asking them
18 to take a fresh look. He received a response
19 yesterday that they have reviewed the stores'
20 activities and that they have been closely
21 monitoring Store 219 for a couple of weeks.
22 None of these stores show significant growth
23 or shrinkage issues. Additionally, CVS has a
24 new attorney working with the DEA. They
25 acknowledge that Florida has been cracking

1 down on 'pill mills' and that this is driving
2 more legitimate traffic to CVS stores.

3 He also says, "Brian will send
4 your slides over to LP for their review and
5 response. They will not provide the doctor
6 or patient information you requested unless
7 it's requested by the DEA. He was also quite
8 adamant about this. He does not expect
9 Cardinal to interrupt service to CVS stores
10 since they have responded in the manner we
11 originally agreed upon when launching the SOM
12 program."

13 Do you know, before the
14 immediate suspension order came out in 2012,
15 whether Cardinal ever conducted a site visit
16 of CVS 219, Mr. Morse?

17 A. I do not know.

18 Q. If CVS is refusing to provide
19 information requested by Cardinal such as
20 doctor and patient information, like we
21 talked about earlier, that would send up a
22 red flag for Cardinal, would it not?

23 MR. PYSER: Object to form.

24 A. This decision to conduct a --

25 --oOo--

1 BY MR. FULLER:

2 Q. Mr. Morse, hold on. My
3 question is: Would it not send up a red flag
4 if a pharmacy fails to provide information
5 that you requested?

6 MR. PYSER: Object to form.

7 BY MR. FULLER:

8 Q. Earlier your testimony was,
9 yes, it would.

10 MR. PYSER: Object to form.

11 A. If the -- I'm sorry, I'm going
12 to have to qualify this.

13 BY MR. FULLER:

14 Q. You can answer yes or no but
15 explain your answer.

16 A. I will.

17 Q. Does it send up a red flag, yes
18 or no?

19 A. Yes, it will send up a red
20 flag.

21 Q. Fair enough. Now you can
22 explain if you need to explain.

23 MR. PYSER: Object to form.

24 A. I'll stop right there.

25 --oOo--

1 BY MR. FULLER:

2 Q. Fair enough.

3 And if you continue up into
4 Mr. Moné's response, he says, "OK to release
5 the CVS held orders for the weekend. We will
6 work through another solution. Please place
7 this e-mail into the repository."

8 Do you see that?

9 A. I see it.

10 Q. So at least according to that,
11 if they followed what Mr. Moné had asked,
12 whatever orders were being held would have
13 been released, correct?

14 A. Correct.

15 Q. Okay. Now -- well, we'll get
16 to it.

17 Do you know, during this time
18 frame, which was 2010, whether you could
19 obtain from CVS dosage utilization reports?
20 Would they give them to you?

21 A. They would not give them to --
22 well, my division would not have -- well,
23 they would request them but we could not get
24 them from CVS.

25 Q. Would they give you patient or

1 prescriber information?

2 A. No.

3 Q. Would they give you -- now,
4 let's make sure we clarify, because with CVS
5 it was a little bit of a different thing
6 because you guys provided the Schedule IIs
7 while they did their own Schedule IIIs,
8 right?

9 A. They had their own warehouse --

10 Q. So they did some of their own
11 distributions, is my point.

12 A. Yes, they did some of their own
13 distributions. They had their own warehouse.
14 Schedule IIs, I believe, came from us.

15 Q. Right. So one of the things
16 you know to look at in comparison when you're
17 looking for potential issues with diversion
18 is the percent of Schedule IIs versus all
19 controlleds as well as all prescriptions,
20 right?

21 A. In a normal course of an
22 investigation, that's something we would like
23 to get.

24 Q. Would CVS give you that
25 additional information so you could do that

1 analysis?

2 A. I do not know about the
3 controlled substance distribution from their
4 warehouse. I don't know whether that
5 information could be provided to us or not.

6 Q. Did you ever ask for it?

7 A. I did not.

8 Q. Would that have been something
9 that you would have wanted in conducting some
10 investigations?

11 A. If I had a request to
12 inspect -- excuse me -- to have an
13 investigation on a CVS, yes.

14 Q. Okay.

15 A. For my team.

16 Q. Right. And as far as you know,
17 your team never got that information,
18 correct?

19 A. My team did not get that
20 information.

21 Q. Okay. Let's go to the next
22 page, page 13.

23 A. Which document are we on?

24 Q. I'm sorry, we're switching up
25 again. I apologize, we're going back to

1 80 -- excuse me, 4085.

2 A. Exhibit?

3 Q. I think it's 2.

4 A. Gotcha.

5 Q. Yes. And so you know, that's
6 going to be our main fallback. That will be
7 the one we keep going back to today, okay?

8 A. Okay. I'll just keep it out.
9 And the page number?

10 Q. 13.

11 A. Oh, 13.

12 Q. Can you see in the middle of
13 the page it starts --

14 A. Let me familiarize myself --

15 Q. Sure.

16 A. -- with the date on this
17 document. February 12, 2012. Okay.

18 Okay.

19 Q. And just so I know for
20 questions' sake, when did your position
21 change to moving out of anti-diversion,
22 approximately? You came in February-March
23 of 2008 --

24 A. Oh, that was in October
25 of 2012.

1 Q. Okay. So to October 2012. So
2 you were there most of 2008, '9, '10, '11,
3 and a good bit of '12.

4 A. Yes.

5 Q. In anti-diversion.

6 A. Yes.

7 Q. So about the middle of the
8 page, it says, "On July 7, 2011." Do you see
9 that? Page 13, make sure you've got 13
10 there. I thought that page looked a little
11 different than the one I was looking at.

12 A. Okay.

13 Q. -- "DEA representatives from
14 DEA Headquarters and the Seattle Field
15 Division met with Cardinal Health at DEA
16 Headquarters to discuss the firm's theft and
17 loss reporting and conducting due diligence
18 to maintain effective controls against
19 diversion with respect to Cardinal Health's
20 Auburn, Washington distribution facility."

21 Do you remember this meeting at
22 all, Mr. Morse?

23 A. I do not.

24 Q. Is it safe to say, then, that
25 you did not partake in this meeting at DEA

1 headquarters?

2 A. I did not.

3 Q. Okay. Do you remember anybody
4 relaying information to you after this
5 meeting of what transpired and what occurred
6 related to effective controls against
7 diversion and the due diligence requirements
8 for the Washington Auburn distribution
9 center?

10 A. I do not recall.

11 Q. It says, "DEA representatives
12 further advised Cardinal Health that, with
13 respect to their due diligence
14 responsibilities, Cardinal Health should
15 examine their Florida customers -
16 particularly Cardinal Health's retail chain
17 customers. The DEA did not indicate that its
18 concern with Cardinal Health's Florida
19 distributions was limited only to Cardinal
20 Health's top few customers."

21 Did anybody come to you after
22 this meeting and say, "Hey, the DEA has given
23 us a warning to take a close look at our
24 retail chains in Florida. Mr. Morse, can you
25 help us with that?"

1 MR. PYSER: Object to form.

2 A. Help you with it? Help you
3 with what?

4 BY MR. FULLER:

5 Q. No, no. I said -- let me reask
6 the question.

7 A. Can I help you?

8 Q. Did anybody come to you shortly
9 after this meeting and say, "The DEA has
10 warned us to look at our chain distributions,
11 our chain pharmacy distributions in Florida.
12 Mr. Morse, can you" --

13 A. Very specific question. No.

14 Q. -- "can you help us with that?"

15 A. No.

16 Q. No one ever came and asked you
17 that?

18 A. Not that specific question or
19 anything around that question.

20 Q. That was going to be my next
21 question, when you say "Not that specific
22 question."

23 A. No. No.

24 Q. Did anybody come to you around
25 this time frame and ask you particularly

1 about chains distribution?

2 A. No. That --

3 Q. Go ahead.

4 A. No.

5 Q. Was there ever any discussion
6 that you had with Mr. Moné or anybody else at
7 Cardinal about your concerns with chain
8 distributions?

9 MS. RANJAN: Object to form.

10 MR. PYSER: Object to form.

11 A. Repeat the question, please.

12 BY MR. FULLER:

13 Q. Sure.

14 Did you ever voice any concerns
15 to anybody about the distributions going to
16 chains, chain pharmacies?

17 MS. RANJAN: Object to form.

18 A. I did not.

19 BY MR. FULLER:

20 Q. Do you know of anybody that
21 did?

22 A. The people that did would not
23 be from my area, but there are -- I can't
24 speculate to that, but that would have come
25 out of another area.

1 Q. When you say "another area,"
2 you mean another department within Cardinal
3 Health?

4 A. Within -- under Michael's
5 purview.

6 Q. And what department would that
7 be?

8 A. Well, "department" was a poor
9 choice of terms on my part.

10 Q. Well, what subdivision?

11 A. It would have been the
12 pharmacists who were reviewing the threshold
13 events would be -- would be relaying to
14 DEA -- to DEA -- to Michael Moné the
15 information on what these pharmacies were
16 ordering.

17 I don't -- in the role of
18 managing the investigators, day-to-day tabs
19 on thresholds, quantities, were not within my
20 purview.

21 Q. Okay. But again, did you ever
22 hear of any of these people doing the
23 analysis, whatever they're called, raising
24 any concerns with chain pharmacies during
25 your time there at Cardinal?

1 MS. RANJAN: Object to form.

2 MR. PYSER: Object to form.

3 A. I can't remember that that
4 actually happened.

5 BY MR. FULLER:

6 Q. So is it fair -- strike that.

7 So during your time at
8 Cardinal, you heard nobody raise any concerns
9 related to the distribution to chain
10 pharmacies, correct?

11 MR. PYSER: Object to form.

12 A. Not officially.

13 BY MR. FULLER:

14 Q. What about unofficially?

15 A. Unofficially, discussions, made
16 it clear that the question was raised with
17 Michael, and this was through others who
18 reviewed those threshold reports, and that
19 Michael was making attempts to investigate
20 these pharmacies and get the information we
21 needed in different ways.

22 Q. And when you say "the
23 information you needed," you're talking about
24 the information that you would normally have
25 for your independent pharmacies because you

1 would require them to give it to you,
2 correct? Or at least some of that
3 information.

4 A. The investigations of CVS
5 pharmacies did not involve my team. Those
6 investigations were done from -- obviously
7 from these documents, was done by those that
8 were reviewing the quantities, the
9 thresholds, and those above my division.

10 Q. Right. Because as we've
11 already established, there wouldn't be site
12 visits, which your team did the site visits.

13 A. Right. So the communications
14 they had, I wouldn't necessarily be privy to.

15 Q. So is it your understanding
16 that what Mr. Moné was trying to do was
17 gather the information that you would
18 generally have for your retail independents
19 for some of these chains, for example, CVS?

20 MS. RANJAN: Object to form.

21 MR. PYSER: Object to form.

22 A. That would be my understanding.

23 BY MR. FULLER:

24 Q. And you also understood that
25 CVS was a huge customer of Cardinal Health.

1 It made up about 20% of the revenue for
2 Cardinal Health, correct?

3 MR. PYSER: Object to form.

4 A. I wouldn't necessarily be aware
5 of that. I knew they were a big customer.
6 That's all I knew.

7 BY MR. FULLER:

8 Q. Well, let's phrase it
9 differently. You knew CVS was one of the
10 largest chains in the entire United States of
11 America.

12 A. They had -- yeah.

13 Q. Right?

14 A. Yes.

15 Q. And you knew Cardinal Health
16 had that business.

17 A. Yes.

18 Q. And as far as individual
19 customers goes, it was one of the biggest for
20 Cardinal during this time frame, correct?

21 A. I was aware of that.

22 Q. Okay. So let's continue on
23 this page 13. It says, "On August 23rd,
24 2011, DEA Headquarters -- Headquarters
25 representatives met with representatives of

1 Mallinckrodt LLC."

2 Do you know who Mallinckrodt
3 is, Mr. Morse?

4 A. If memory serves, I believe
5 Mallinckrodt is a manufacturer.

6 Q. Absolutely correct. It says,
7 "Mallinckrodt, a manufacturer" --

8 A. Oh, it says right there, okay.

9 Q. We just didn't get far enough
10 to give you the answer.

11 It says, "Mallinckrodt, a
12 manufacturer that sells oxycodone to
13 wholesale distributors, including Cardinal.
14 About three weeks after the meeting with the
15 DEA, on September 16th, 2011, Mallinckrodt
16 sent a letter to 43 distributors, including
17 Cardinal Health. The letter stated that it
18 was no longer processing 'chargebacks' from
19 distributor sales of Mallinckrodt's products
20 to certain pharmacies, including Gulf Coast
21 Pharmacy, one of Respondent's top four
22 customers in Florida, which were identified
23 and included -- in an included Attachment."

24 Do you recall that occurring,
25 that Mallinckrodt told Cardinal that, "Hey,

1 we have concerns about the distributions at
2 Gulf Coast and we're no longer going to allow
3 them, or Cardinal, for that matter, to
4 participate in the chargeback system related
5 to sales to Gulf Coast"?

6 MR. PYSER: Object -- object to
7 form.

8 Go ahead.

9 A. I was aware of our discussion
10 that there was some discussions with
11 Mallinckrodt and they sent some information
12 to Cardinal. Gulf Coast, I would have to say
13 no.

14 MR. FULLER: Okay. 4017,
15 please. 4-0-1-7. I don't think I
16 have my copy either. I need their
17 copies first, please.

18 (Cardinal-Morse Exhibit 5
19 marked.)

20 MR. FULLER: Here you go.

21 BY MR. FULLER:

22 Q. All right. And you see this
23 letter, as it mentions in the pretrial
24 statement, it was sent September 16 of 2011.

25 Do you see that?

1 A. Yes.

2 Q. And I'll represent to you that
3 even though it's not addressed to Cardinal,
4 at least according to that, and it's in
5 the -- if you look at the first page, it's
6 attached as part of the litigation going on
7 related to the pretrial statement, okay?

8 A. What does that mean?

9 Q. It was filed with the court as
10 part of the official record.

11 A. Okay. Gotcha.

12 Q. And then if you look at the
13 second paragraph -- well, let's back up.
14 Let's look at the first paragraph. It says,
15 "As you are aware, all U.S. Drug Enforcement
16 Administration ('DEA') Registrants are
17 required by law to have a Suspicious Order
18 Monitoring Program in place to monitor sales
19 of controlled substances. As a DEA
20 Registrant, Mallinckrodt, a Covidien" -- I'm
21 guessing how to pronounce it -- "Company
22 (hereinafter Mallinckrodt), has developed and
23 maintains a comprehensive program that
24 includes review of customer orders, IMS data
25 and chargeback information and, where

1 appropriate, subsequent audits of
2 distributors' Suspicious Order Monitoring
3 Programs.

4 "Effective immediately,
5 Mallinckrodt will no longer process charge
6 backs from distributor sales of
7 Mallinckrodt's products to the pharmacies
8 identified in Attachment 1 hereto."

9 And if you turn the page,
10 there's four Florida pharmacies identified.
11 Do you see that? One of them being Gulf
12 Coast Medical Pharmacy.

13 A. Correct.

14 Q. Which was one of your customers
15 at Cardinal, correct?

16 A. Correct.

17 Q. Okay. Do you know of any
18 immediate action that Cardinal took based on
19 this warning given -- from Mallinckrodt?

20 MR. PYSER: Object to form.

21 A. I can't speak to this specific
22 letter, but letters received like this
23 resulted in a review of these customers that
24 were provided to us.

25 --oOo--

1 BY MR. FULLER:

2 Q. Okay.

3 A. Some of those reviews very well
4 ended up as requests to have an investigation
5 by my investigators.

6 Q. And if your group or your team
7 was requested to do an investigation, you
8 would conduct that investigation and then
9 there would be written reports related to
10 that investigation that would ultimately go
11 in the particular pharmacy's due diligence
12 file, correct?

13 A. Yes. Yes.

14 Q. Okay. We're going back to your
15 big document, 4085, still on page 14. It
16 says, "Mallinckrodt met with Cardinal Health
17 on September 30th."

18 A. Okay.

19 Q. Which is shortly after that
20 letter came out, right?

21 A. Yes.

22 Q. "To discuss levels of sales of
23 Mallinckrodt's products to Cardinal Health in
24 Florida. As part of the meeting, Mallinckrodt
25 gave Cardinal Health two lists - a list

1 containing the top 20 pharmacies by volume
2 located in state and a second list based on
3 the top 20 pharmacies by volume located out
4 of state, based on Cardinal Health's
5 distributions of oxycodone 30-milligram and
6 oxy 15-milligram manufactured by
7 Mallinckrodt."

8 Now, let's back up for a
9 second. You know that oxycodone in the 30s
10 and 15s are some of the heaviestly abused
11 dosage units for Oxycontin, correct?

12 MS. RANJAN: Object to form.

13 A. In this time frame, yes.

14 BY MR. FULLER:

15 Q. Okay. This September meeting
16 in 2011, were you made a part of that? Did
17 you attend this meeting with Mallinckrodt at
18 Cardinal Health's offices?

19 A. I don't recall being in the
20 meeting with Mallinckrodt present.

21 Q. Do you recall anything that was
22 said related to this meeting? It mentions
23 two lists that Mallinckrodt provided, top 20
24 pharmacies by volume in state --

25 A. Yes. Yes.

1 Q. -- as well as out of state of
2 oxy 30 and 15s. I would assume, and correct
3 me if I'm wrong, that that may be a helpful
4 tool for Cardinal to look at some of these
5 pharmacies, right?

6 MR. PYSER: Object to form.

7 A. Yes.

8 MR. PYSER: Go ahead.

9 A. And it was. Those lists were
10 reviewed by Michael Moné and others that I'm
11 not aware of, and they decided what type of
12 review they would get. And I do know that we
13 visited some, if not most, if not all, of
14 those pharmacies.

15 BY MR. FULLER:

16 Q. Okay. At least that's your
17 rec- --

18 A. A visited investigation, you
19 know, an on-boots investigation, my own
20 investigators.

21 Q. And when you say Mr. Moné
22 reviewed those lists with others --

23 A. I --

24 Q. -- others in the
25 anti-diversion?

1 A. Yes.

2 Q. Maybe Mr. Hartman, depending --

3 A. At this time, yeah. With the
4 SVP, he may have.

5 Q. Well, then I guess it may have
6 been Gilberto by this time.

7 A. It's possible, yeah.

8 Q. Okay.

9 A. I'm not sure exactly when
10 Hartman left.

11 Q. Sure. Whatever that position
12 was, whoever was filling that position.

13 A. Yeah. From my role --

14 Q. Fair enough.

15 A. -- it came down to me, visit or
16 not, so...

17 Q. And was it specifically
18 indicated to you which ones you were visiting
19 based on a review of this list? How did you
20 know that you were visiting some on this
21 list, I guess is a better question, versus
22 reviewing for any other reason.

23 A. I knew there was a list and I
24 was told that some of them are on that list.
25 I believe I may have even seen a list. I

1 don't know if this occurred more than once,
2 but I have seen a list.

3 Q. Okay. I only know of it
4 happening once. I'm not saying it didn't
5 happen more. You may be correct. But you
6 believe at some point you saw the list; you
7 just weren't at this meeting?

8 A. Yes.

9 Q. Okay. So --

10 MR. PYSER: Hold on one second,
11 Steve. Were you asking for your
12 jacket?

13 THE WITNESS: Yes, I was.

14 MR. FULLER: Absolutely.

15 MS. RANJAN: It's a little bit
16 chilly here. Although I like it cold.

17 BY MR. FULLER:

18 Q. All right. Is that better,
19 Mr. Morse?

20 A. It's better.

21 Q. Fair enough.

22 All right. Still on page 14.

23 If we go to the bottom of the page,
24 "October 18, 2011, based on DEA's evaluation
25 of ARCOS" -- do you know what ARCOS data is?

1 A. Roughly. Not in detail.

2 Q. -- "(described further below)
3 data regarding the top distributions of
4 oxycodone in the United States, DEA executed
5 Administrative Inspection Warrants, or IAWs,
6 on three of the Respondent's top four
7 pharmacy Florida customers of oxycodone,"
8 which was CVS 219, which we've already talked
9 about a little bit, right?

10 A. Yes.

11 Q. That was one of the ones --

12 A. I'm going to have to refer back
13 to it, but I believe -- if this was the ones
14 mentioned earlier, I'll say yes.

15 Q. It was -- it was 219
16 specifically mentioned in that e-mail that we
17 looked at --

18 A. 5195, okay.

19 Q. -- that Cardinal was apparently
20 asking for additional information, was
21 refused that information by CVS but told by
22 CVS it was clear to continue shipments.

23 Do you remember that?

24 A. Fair enough.

25 Q. Okay. "Florida customer of

1 oxycodone CVS 219, CVS 5195, and CareMed. At
2 the time the IAW was executed at CareMed
3 pharmacy, CareMed voluntarily surrendered its
4 DEA registration for cause."

5 You would agree with me that
6 that's a very extreme step for the pharmacy
7 to voluntarily give up its registration when
8 it's been served just with an administrative
9 inspection warrant, correct?

10 MR. PYSER: Object to form.

11 A. Yes.

12 BY MR. FULLER:

13 Q. It goes on to say, "Shortly
14 thereafter, on November 5th, 2011, a federal
15 search warrant was executed at Gulf Coast
16 Pharmacy, after which Gulf Coast voluntarily
17 surrendered its DEA registration for cause."

18 Those are two customers of
19 Cardinal's that, when served just an
20 administrative inspection warrant, gathering
21 information warrant by the DEA, chose to
22 forgo the process and surrender their DEA
23 license, right?

24 A. Yes.

25 MR. PYSER: Object to form.

1 BY MR. FULLER:

2 Q. Again, as you mentioned, that's
3 a pretty significant step.

4 Let's go on. "On October 26th,
5 2011, DEA executed an Administrative
6 Inspection Warrant at Respondent's location,"
7 referring to the Lakeland distribution
8 center. You're aware that that was executed
9 during October of 2011, correct?

10 A. I was aware that it was
11 executed.

12 Q. You may not know this exact
13 date --

14 MR. PYSER: Before you
15 answer -- hold on one second. Before
16 you answer the question, you've got to
17 give me a chance to object.

18 THE WITNESS: Thank you.

19 MR. PYSER: And move to strike
20 the preface of the last question -- or
21 the question before the last question.

22 BY MR. FULLER:

23 Q. And there's no indication here
24 that Cardinal voluntarily gave up its DEA
25 registration, is there?

1 A. We're looking at the paragraph
2 on October 26th.

3 Q. That first paragraph, yes, sir.

4 A. This does not say that Cardinal
5 voluntarily gave up its registration.

6 Q. Were you aware when this
7 administrative inspection warrant was served
8 that the DEA was suggesting that Cardinal was
9 failing to report suspicious orders?

10 MR. PYSER: Object to form.

11 A. I was not aware of that.

12 BY MR. FULLER:

13 Q. Let's read on, then. "The
14 affidavit supporting the warrant stated that
15 because 'DEA is investigating Cardinal
16 Health's top four customers to determine
17 whether the pharmacies are dispensing
18 controlled substances outside the scope of
19 their registration'" --

20 A. Hold on. Let me stop. I need
21 to get where you are.

22 Q. I'm sorry.

23 A. October 26th -- okay. So we're
24 back into this paragraph. Okay, gotcha.

25 Q. Yes, sir. We just continued.

1 A. I'm here.

2 Q. And I'll back up a little bit.

3 The "'DEA is investigating Cardinal Health's
4 top four customers to determine whether the
5 pharmacies are dispensing controlled
6 substances outside the scope of their
7 registration,' 'DEA also needs to -- excuse
8 me -- also needs to determine whether
9 Cardinal Health has failed to report
10 suspicious orders to the DEA.' DEA
11 investigators gave Respondent a list of
12 documents that needed to be provided to the
13 DEA."

14 Were you at all involved in
15 that process, Mr. Morse?

16 MR. PYSER: Object to form.

17 A. In the process of collecting
18 those documents, no.

19 BY MR. FULLER:

20 Q. Were you involved in this
21 process at all with the administrative
22 inspection warrant?

23 A. No.

24 Q. But you were made aware of
25 this, correct?

1 A. I knew when they went into the
2 facility.

3 Q. Based on this immediate
4 inspection warrant -- excuse me,
5 administrative inspection warrant, were you
6 given any tasks to do related to the
7 pharmacies in Florida?

8 A. I can't connect the two in my
9 mind.

10 Q. Is it fair enough that you
11 don't recall --

12 A. I don't recall.

13 Q. -- being directed to do
14 anything?

15 A. I do not recall.

16 Q. Fair enough.

17 THE VIDEOGRAPHER: We have
18 about 10 minutes left on the tape.

19 MR. FULLER: Thank you.

20 So let's go ahead and go to
21 4019.

22 (Cardinal-Morse Exhibit 6
23 marked.)

24 BY MR. FULLER:

25 Q. Mr. Morse, what you're going to

1 see is that this is the Order to Show Cause
2 and Immediate Suspension of Registration that
3 was issued in February of 2012.

4 Have you seen this document
5 before?

6 (Document review by witness.)

7 A. I do not recall ever having
8 seen this before.

9 BY MR. FULLER:

10 Q. Okay. This is entitled "In the
11 Matter of" -- you see it's by the U.S.
12 Department of Justice --

13 A. Uh-huh.

14 Q. -- Drug Enforcement
15 Administration?

16 A. Okay.

17 Q. "In the Matter of Cardinal
18 Health," and it gives a Lakeland address.

19 Do you see that?

20 A. I do.

21 Q. And it's an Order to Show Cause
22 and Immediate Suspension Order, and if you go
23 down to number 2 it says, "On September 30th
24 of 2008, Cardinal entered into an
25 Administrative Memorandum of Agreement, or

1 MOA, with the DEA agreeing to 'maintain a
2 compliance program designed to detect and
3 prevent the diversion of controlled
4 substances as required under the CSA and
5 applicable DEA regulations.'"

6 That's the same thing we read,
7 that's the same quote we read out of the MOA,
8 right?

9 A. It appears to be.

10 Q. Okay. And let's turn to the
11 next page and see what the DEA says that
12 Cardinal wasn't doing. And if you go to the
13 allegations, under sub 4, paragraph (a), do
14 you see that section there?

15 A. I do.

16 Q. It says, "From January 1st,
17 2008 through" --

18 A. May we pause?

19 Q. Yes, sir.

20 A. I would like to read 4.

21 (Document review by witness.)

22 A. Thank you.

23 BY MR. FULLER:

24 Q. It says, "From January 1st,
25 2008 through December 31st, 2011, the

1 Automation of Reports and Consolidation
2 Orders System, or ARCOS, data shows that
3 Cardinal's sales of oxycodone products to its
4 top four retail pharmacy customers exceeded
5 12.9 million dosage units."

6 Do you see that? Underline
7 that. 12.9 million. That's to four
8 pharmacies, right?

9 A. The top -- yeah.

10 Q. Top four customers --

11 A. Yeah, yes.

12 Q. -- in the state of Florida.

13 You were made aware of that after this came
14 out, right?

15 MR. PYSER: Object to form.

16 A. I was made aware of it after
17 they --

18 BY MR. FULLER:

19 Q. When these allegations came out
20 by the DEA, weren't you made aware of this by
21 Cardinal?

22 A. Yes.

23 Q. Okay. And then it goes on.

24 "In 2010 and 2011 alone, Cardinal sold
25 10.9 million dosage units of oxycodone to the

1 top four customers. From 2008 to 2009,
2 Cardinal's sales to its top four retail
3 pharmacy customers increased approximately
4 803%."

5 Mr. Morse, we can agree that an
6 803% increase between two years in sales is a
7 significant increase in sales, correct?

8 MR. PYSER: Object to form.

9 A. This is an allegation, is it
10 not?

11 BY MR. FULLER:

12 Q. It is an allegation,
13 absolutely.

14 A. Well, as an allegation, I would
15 have to say yeah, it's probably -- I would
16 agree with you because it's an allegation,
17 not a proven fact. So...

18 Q. Well, okay. So did Cardinal
19 look into this and determine that that was
20 incorrect?

21 MR. PYSER: Object to form.

22 BY MR. FULLER:

23 Q. Do you know?

24 A. I would not have known in my
25 role, no.

1 Q. Do you --

2 A. Necessarily.

3 Q. We know at least two of the top
4 four --

5 A. I don't know the four
6 pharmacies.

7 Q. I'm sorry?

8 A. I don't know which four
9 pharmacies we're looking at here. Were those
10 the four that we looked at earlier?

11 Q. It's the top four, still the
12 same top four.

13 A. Okay. Top four.

14 Q. Two CVSs and CareMed.

15 A. Okay. Okay. So --

16 Q. Go ahead.

17 A. Your question?

18 Q. Yeah. So, I mean, do you have
19 any reason to believe that's incorrect
20 information?

21 A. It's an allegation. I have no
22 earthly idea. I can't figure it out.

23 Q. Do you have any information,
24 does Mr. Morse know anything in his mind to
25 say that that's wrong, that the DEA, the

1 Department of Justice, got the math wrong in
2 doing the numbers?

3 A. I can't say yes or no.

4 Q. Well, no, no. I'm asking if
5 Mr. Morse knows anything in his head, sitting
6 here today --

7 A. No.

8 Q. Okay. If that is accurate --
9 and listen. If you know something as to why
10 or how the Department of Justice was wrong
11 here, I want you to tell us so we can address
12 it now.

13 So if there's something that
14 you know that this information isn't
15 accurate, you need to share it with us now.
16 Now is my opportunity to ask you, so I'm
17 asking, Mr. Morse. Is there anything that
18 you know that would indicate this information
19 is incorrect?

20 A. No, not other than it being an
21 allegation, that I understand an allegation
22 is not proven.

23 Q. You're right. You're right.
24 It indicates that the information is coming
25 from the ARCOS data, which is data that the

1 DEA would have to rely on Cardinal to report
2 accurately, right?

3 A. I don't know who reports ARCOS.

4 Q. You don't even know who reports
5 ARCOS?

6 A. I think, looking at something
7 from previously, the registrants have to
8 report who they sell to. So I'm assuming
9 that's the ARCOS report.

10 Q. And the registrant in this
11 scenario would be Cardinal, correct?

12 A. Yes, it would.

13 Q. Okay. So if there was a 203%
14 increase between 2008 and 2009, we can agree
15 that would be a significant increase,
16 correct?

17 A. It's a large number.

18 Q. We can also agree that
19 Cardinal, between 2010 and 2011, distributing
20 10.9 million dosage units to four pharmacies
21 in Florida is also a significant number,
22 correct?

23 MR. PYSER: Object to form.

24 A. It's a significant number, but
25 I don't know the context.

1 BY MR. FULLER:

2 Q. And we know Cardinal had at
3 least some concerns about the CVS, right?

4 A. We know?

5 Q. We know.

6 A. I know?

7 Q. You know.

8 A. I know?

9 MR. PYSER: Object to form.

10 BY MR. FULLER:

11 Q. We looked at the e-mail earlier
12 today when Cardinal was specifically asking
13 CVS -- yeah, CVS about 219.

14 A. Uh-huh.

15 Q. And we saw what was written
16 that came back from CVS's loss prevention
17 department that everything was fine, did we
18 not? Do you want to go back to that exhibit?

19 MR. PYSER: Object to form.

20 A. I didn't see those documents,
21 so if those documents are accurate, then
22 Cardinal must have known. I have no reason
23 to believe they weren't. I have no reason to
24 believe they are. Cardinal knew.

25 --oOo--

1 BY MR. FULLER:

2 Q. Hold on. Let's go back -- what
3 exhibit was that?

4 A. Am I speaking to what I know?

5 Q. Don't worry. No. No, you are
6 not limited to speaking to what you know.

7 MR. PYSER: Object to form.

8 BY MR. FULLER:

9 Q. You're answering the
10 questions --

11 MR. PYSER: Answer the
12 questions based on the best of your
13 knowledge.

14 BY MR. FULLER:

15 Q. You're answering the questions
16 that I ask you.

17 MR. PYSER: You can't answer
18 things that you don't know, which
19 seems to be what Counsel was implying.

20 MR. FULLER: Where is my other
21 exhibit?

22 Could you pass me the exhibits,
23 Mr. Morse or Mr. Pyser? It's
24 Exhibit 4, 4030. It starts on page 2,
25 rolls on to page 3. There you go.

1 Blow up the bottom of page 2,
2 please.

3 BY MR. FULLER:

4 Q. Did we look at this e-mail
5 earlier from Paul Farley to Mr. Moné?

6 A. We looked at it, yes.

7 Q. And do you have any reason to
8 believe Mr. Paul Farley, an employee of
9 Cardinal, is lying?

10 MR. PYSER: Object to form,
11 misstates evidence.

12 A. I don't know Paul Farley.

13 BY MR. FULLER:

14 Q. Okay. So you have no basis --

15 A. So I have no basis.

16 Q. Okay. And you see the e-mail
17 is going to Mr. Moné, who you do know, who is
18 your direct report, correct?

19 A. Yes.

20 Q. Okay. And it says, "I spoke
21 with Brian Whalen at CVS a couple of times
22 this morning regarding Store 219." That's
23 the same store we looked at as being one of
24 the top four for Cardinal.

25 A. 219.

1 Q. Right?

2 A. Okay.

3 Q. Is that right?

4 A. It is.

5 Q. Okay. "And the other locations
6 you referenced at NACDS. I also reviewed
7 your slides with him. He tells me that he
8 responded to Cardinal last month on inquiries
9 for these same stores. At that time CVS
10 experienced an increase in sales due to the
11 DEA closing stores in the area. Again
12 earlier this week, because of the request, he
13 sent another e-mail to LP," loss prevention,
14 "asking them to take a fresh look. He
15 received a response yesterday that they have
16 reviewed the stores' activity and they have
17 been closely monitoring Store 219 for a
18 couple of weeks. None of these stores shows
19 significant growth or shrinkage issues."

20 Right? Did I read that
21 correctly?

22 A. That's correct.

23 Q. But according to the
24 allegations in the immediate suspension
25 order, there apparently has been a huge

1 growth. Right?

2 A. Apparently.

3 Q. And CVS tells us there's been
4 no significant growth or shrinkage, at least
5 according to the e-mail, right?

6 MR. PYSER: Object to form.

7 A. That's what the documents say.

8 BY MR. FULLER:

9 Q. Well, let's look -- let's go to
10 4085, page 19. I'm sorry, I should have
11 passed that back to you. I apologize.

12 MR. FULLER: Oh, got it. Guys,
13 let's take a break. She told me 10
14 minutes a little bit ago and we're
15 running out of tape.

16 MR. PYSER: That's fine.

17 THE VIDEOGRAPHER: Going off
18 the record at 11:07. This is the end
19 of Tape 2.

20 (Recess taken, 11:07 a.m. to
21 11:27 a.m.)

22 THE VIDEOGRAPHER: Okay, stand
23 by. All right. We're back on the
24 record at 11:27. This begins Tape 3.

25 --oOo--

1 BY MR. FULLER:

2 Q. All right. You don't have to
3 worry about forgetting to take it off if you
4 never put it on, Mr. Morse.

5 A. That works.

6 Q. So, Mr. Morse, we were just
7 talking about CVS and the e-mail information
8 that was relayed to Cardinal about the
9 distribution or sales not growing at CVS 219.

10 Do you recollect that?

11 A. That -- restate that.

12 Q. We were just reviewing the
13 e-mail --

14 A. Uh-huh.

15 Q. -- from Cardinal, from Paul to
16 Mr. Moné, indicating that the information
17 passed from Cardinal with the Cardinal
18 facilities that -- excuse me, the CVS
19 facilities -- let me start it all over.

20 Mr. Moné, when we left to take
21 the break -- and you're not Mr. Moné. You
22 get one call from David Cohen and you get all
23 flustered, I guess. Who knows. He may be
24 flattered, right?

25 All right. So, Mr. Morse,

1 before we took a break, we had went back and
2 re-looked at the e-mail, which I think is
3 Exhibit 4 and may still be in front of you,
4 related to the information passed --

5 A. Right.

6 Q. -- from CVS to Cardinal --

7 A. Yes.

8 Q. -- related to several of CVS's
9 facilities and concerns apparently that
10 Cardinal had, and the information came back
11 that CVS had looked into it, that there
12 hadn't been any significant growth or
13 decrease, specifically mentioning CVS Store
14 219. And Mr. Moné later that day releases
15 the orders, whatever orders were being held
16 at that time, based on those representations.
17 Right?

18 A. It would appear so.

19 Q. And also in that e-mail it was
20 relayed that CVS was refusing to provide
21 Cardinal with physician and patient
22 information as well, and you know that to be
23 a normal practice of CVS's.

24 A. Yes.

25 Q. So let's go back to Exhibit 2,

1 which is 4085. And let's go to page 19 of
2 that document. This is the one that we've
3 been going through all morning, right?

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. Yes, it is.

7 Q. Okay.

8 A. Oh, I thought it was this one.

9 Q. You see there --

10 A. This is the one.

11 Q. -- on page 19, if we look at
12 the bottom section, it says, "Respondent
13 exceeded its own thresholds (TH) in the
14 following instances." And we have a section
15 there on CVS 219, correct?

16 A. Yes.

17 Q. And the time frame of that
18 e-mail relaying the information from CVS was
19 September of 2010. Right? The e-mail
20 exhibit that you looked at earlier,
21 Mr. Morse, not this document. The e-mail
22 exhibit that you just put back.

23 A. September of 2010, that's
24 correct.

25 Q. Okay. So let's look at CVS 219

1 at the bottom of page 19 here. We can blow
2 it up. And let's focus on that time frame
3 right before that e-mail. So let's go to
4 April of 2010 and see what the information is
5 here.

6 April 2010, the dosage units
7 delivered were 156,580 with a threshold of
8 148,000. Do you see that?

9 A. Yes.

10 Q. Now, remember, during this time
11 frame, at least according to the information
12 CVS provided back to Cardinal, is that there
13 was no growth going on at this time. No
14 increase or decrease, right?

15 A. That's correct.

16 Q. That's what the e-mail said.

17 A. Uh-huh.

18 Q. And we have no reason to
19 disbelieve Paul, who wrote the e-mail to
20 Mr. Moné, do we?

21 MR. PYSER: Object to form.

22 BY MR. FULLER:

23 Q. Is that a no?

24 A. Pardon?

25 Q. We have no reason to disbelieve

1 that e-mail, do we?

2 A. It's self-reporting.

3 MR. PYSER: Object to form,
4 misstates evidence.

5 BY MR. FULLER:

6 Q. I'm sorry, what did you say?

7 A. What did I say?

8 MR. PYSER: Well, according to
9 the court reporter --

10 BY MR. FULLER:

11 Q. You said, "It's
12 self-reporting."

13 A. Yeah. It's self-reported by --

14 Q. But the e-mail indicates the
15 information coming from CVS --

16 A. Yes.

17 Q. -- that there was no growth
18 reported.

19 A. Yes, self-reported by CVS.

20 MR. PYSER: Object to form,
21 misstates evidence.

22 BY MR. FULLER:

23 Q. Okay. So we know in
24 April 2010, Cardinal delivered 156,000 dosage
25 units. Then in May of 2010, 172 dosage

1 units. And I'm rounding, Mr. Morse. It's
2 actually 172,450, right?

3 A. Correct.

4 Q. Okay. Then in June, 200,000
5 dosage units. Do you see that?

6 A. Yes.

7 Q. You could agree with me that
8 they are increasing, are they not?

9 A. Yes.

10 Q. Numbers are getting larger. I
11 mean, we started in April at 156,000. Now
12 we've increased by 44,000 dosage units per
13 month.

14 So let's go to July. 207,000
15 dosage units for July of 2010. Then in
16 August, 242,000. In September, the month the
17 e-mail was actually sent, 281,000 dosage
18 units delivered to CVS 219.

19 Do you see that?

20 A. I see it.

21 Q. And you mentioned earlier about
22 having to look at CVS a little differently
23 and finding different ways to get the
24 information. But this is Cardinal's sales to
25 CVS. Cardinal would absolutely have access

1 to this information before Mr. Moné would
2 have pulled the holds on those orders and let
3 those pills be distributed to these
4 pharmacies, correct?

5 MR. PYSER: Object to form.

6 A. Yes.

7 BY MR. FULLER:

8 Q. And while CVS may not consider
9 this an increase, the dosage units went from
10 156 to 281, almost doubled, didn't it?

11 A. Close.

12 Q. Let me ask, do you see an
13 inherent conflict with CVS providing the due
14 diligence for itself --

15 MR. PYSER: Object to form.

16 BY MR. FULLER:

17 Q. -- when it comes to controlled
18 substances?

19 A. What CVS does --

20 Q. My question is: Whatever loss
21 prevention is doing, do you see an issue with
22 them policing themselves in that regard?

23 MR. PYSER: Object to form.

24 A. That happens with all
25 pharmacies.

1 BY MR. FULLER:

2 Q. But this is different, right?

3 A. We go to the pharmacies and ask
4 them. Now, this wasn't -- we had this
5 information.

6 Q. You had this information.

7 A. This information is our
8 information.

9 Q. Right. You didn't have to go
10 to a pharmacy and ask them for this.
11 Cardinal would have had its own sales data,
12 undoubtedly, correct?

13 A. Yes.

14 Q. And if someone is doing proper
15 due diligence, one thing that you've said,
16 one thing that -- I mean, it's in all the
17 policies and procedures. One thing you want
18 to look at is the sales history, if you have
19 it. Right?

20 A. Yes.

21 Q. And Cardinal clearly had it for
22 CVS 219.

23 A. Yes.

24 Q. Cardinal, at least based on the
25 e-mail, clearly had concerns about 219,

1 right?

2 A. Yes.

3 Q. But yet it kept shipping more
4 and more and more controlled substance,
5 highly addictive medications, to 219, based
6 on CVS's representations that everything was
7 good, correct?

8 MR. PYSER: Object to form.

9 A. I do not know what it was based
10 on.

11 BY MR. FULLER:

12 Q. Well, at least according to the
13 e-mail that was sent that day -- hold on, let
14 me finish my question.

15 According to the e-mail,
16 information that came back, we see later the
17 same day in the chain Mr. Moné released the
18 orders.

19 A. Yes, he did.

20 Q. Okay. Now, you don't know,
21 sitting here today, whether he did any other
22 due diligence, do you?

23 A. That's the point I was going to
24 make.

25 Q. And I knew where you were

1 going. And that's fair. But whatever due
2 diligence he did in justifying, with these
3 type of increases going on, we should see
4 that documented in the due diligence file to
5 justify that kind of move, correct?

6 MR. PYSER: Object to form.

7 A. In the investigative field,
8 yes. With my investigators, yes. With that
9 group, I would say yes.

10 BY MR. FULLER:

11 Q. Because you have to follow
12 regulatory requirements, you want to see the
13 justification as to what decisions are being
14 made so that you can support those decisions
15 if anybody ever calls you out, whether it's
16 your supervisor or anybody else, correct?

17 MR. PYSER: Object to form.

18 A. Yes.

19 BY MR. FULLER:

20 Q. That's certainly what you
21 required of your team of investigators, isn't
22 it?

23 A. Yes.

24 Q. That's what was instilled in
25 you from your higher-ups as well, correct?

1 A. Yes.

2 Q. Okay. So let's go back to
3 page 17. I'm only going two pages back.
4 Actually, let's go back to page 16, just so
5 we can get the title of the section.

6 A. That's the bottom of the second
7 page?

8 Q. It's actually the mid of that
9 page. You see that, "Exponentially
10 Increasing High-Volume Sales"?

11 A. I see it.

12 Q. And one of the criteria for a
13 suspicious order is large sales volume,
14 right? Increases in large sales volume,
15 right?

16 A. It is.

17 Q. Okay. So let's turn to the
18 next page.

19 MR. PYSER: I just want to put
20 on the record, as we have in prior
21 depositions, I have objections to the
22 use of this document and all questions
23 from it as hearsay.

24 BY MR. FULLER:

25 Q. So let's look at the first

1 paragraph and actually start at the second
2 sentence. "Respondent's other Florida retail
3 pharmacies received, on average, 5,364 dosage
4 units per month from October 1 of 2008
5 through December 31, 2011, based on 66,286
6 pharmacies, which equates to 64,000 dosage
7 units annually.

8 "In contrast, CVS 5195 received
9 approximately 58,000 dosage units per month
10 from Respondent; CareMed received 59,264
11 dosage units per month from Respondent; Gulf
12 Coast received 96,664 dosage units per month
13 from Respondent; and CVS 219," who we've
14 talked about now, "received 137,994 dosage
15 units per month from Respondent."

16 Do you see that, Mr. Morse?

17 A. I see it.

18 Q. Now, Cardinal had standard
19 operating procedures, policies and
20 procedures, when it related to dealing with
21 controlled substances in its SOM program. Is
22 that right?

23 A. Would you state the question
24 again?

25 Q. Yes. Cardinal had SOPs,

1 standard operating procedures, related to its
2 SOM, suspicious order monitoring, program,
3 correct?

4 A. Yes.

5 Q. Okay. And let's go to 4226.

6 Now, we talked earlier about
7 looking at sales history and sales volume and
8 things like that for particular pharmacies.
9 But would you agree with me, if we have a
10 particularly bad actor who's always ordered
11 or received an excessive amount, we don't
12 want to base it just on their sales history,
13 correct? We want to look at other similarly
14 situated pharmacies to see what they're
15 getting as well.

16 A. If we have access to that
17 information, yes.

18 Q. Absolutely.

19 And Cardinal had the privilege
20 of servicing a lot of pharmacies in a lot of
21 different areas of the country, didn't they?

22 A. They did.

23 Q. And were there ever times where
24 you pulled or had -- in doing your
25 investigations, pulled information from

1 similarly situated pharmacies to see how one
2 pharmacy may compare, to see if it's an
3 outlier, per se?

4 A. I don't recall. Maybe, maybe
5 not.

6 Q. Is that something that would --

7 A. Circumstance.

8 Q. Is that something that would be
9 helpful in conducting investigations?

10 A. In some circumstances, yes.

11 Q. So, for example, we see the DEA
12 saying that the top four pharmacies have got
13 this huge amount of pills, correct?

14 A. Correct.

15 Q. Okay. Now, we just did talk
16 about some averages based on this document,
17 but say that's the top four pharmacies, and
18 everybody else is right beneath them getting
19 just under that. Well, that would support --
20 sort of support the distribution at the level
21 it was for the top four, right?

22 MR. PYSER: Object to form.

23 BY MR. FULLER:

24 Q. If other similarly situated
25 pharmacies are getting like deliveries or

1 like orders.

2 MR. PYSER: Object to form.

3 BY MR. FULLER:

4 Q. Correct?

5 A. From Cardinal?

6 Q. Yeah.

7 A. I'm not sure where else they're
8 getting their medications from.

9 Q. No, no, no, and maybe my
10 question --

11 A. That makes it hard for me to
12 make that decision, to answer that question.

13 Q. No, maybe my -- hold on, let me
14 reask the question because maybe it was a
15 little confusing.

16 A. Okay.

17 Q. So if we have Pharmacy X that's
18 getting a million dosage units a month, that
19 seems like a lot, right? You and I can
20 agree.

21 MR. PYSER: Object to form.

22 A. Depending on the circumstances.

23 BY MR. FULLER:

24 Q. Yeah.

25 A. It's a large number.

1 Q. But -- but if we are looking at
2 other similarly situated pharmacies and
3 they're getting 999,000 dosage units a month,
4 well, that doesn't look that far out of whack
5 anymore, does it, at a million?

6 MR. PYSER: Object to form.

7 A. Correct.

8 BY MR. FULLER:

9 Q. But if we do that comparison
10 because we're looking at like pharmacies and
11 everybody else is only getting 10,000, well,
12 then, yeah, it's another red flag that there
13 may be something going on with this pharmacy
14 getting a million pills a month, correct?

15 A. A red flag, yes.

16 Q. Absolutely.

17 MR. PYSER: Object. Object to
18 form.

19 BY MR. FULLER:

20 Q. So that was --

21 (Cardinal-Morse Exhibit 7
22 marked.)

23 BY MR. FULLER:

24 Q. Part of my question here --
25 this is going to be --

1 MR. FULLER: I'm sorry. Madam
2 Court Reporter, did I mark and attach
3 all the other exhibits?

4 THE REPORTER: Yes, sir.

5 BY MR. FULLER:

6 Q. Okay. So I'm up to Exhibit 7,
7 which is going to be Plaintiff's 4226. And
8 this is a standard operating procedure for
9 Cardinal Health. Do you see that, Mr. Morse?

10 A. It is.

11 Q. For pharmaceutical
12 distribution, right?

13 A. Yes.

14 Q. And what's the title of it on
15 the front in the box?

16 A. "Detecting and Reporting
17 Suspicious Orders and Responding to Threshold
18 Events."

19 Q. All right. Have you ever seen
20 this policy or procedure or standard
21 operating procedure for Cardinal Health?

22 A. It's not in the realm of
23 investigation, so, no, I do not recall ever
24 seeing or reading through this document.

25 Q. Okay. And if you'll turn --

1 now, you know, though, that, as you testified
2 earlier, that Cardinal had standard operating
3 procedures for things such as this, correct?

4 A. I knew they existed.

5 Q. Okay. And they kept them in
6 the standard course of business. It was part
7 of their practice to have these standard
8 operating procedures.

9 A. They kept coming back, yes.

10 Q. Okay. And if you'd turn to
11 page -- let's see -- page 4 of the document,
12 and you see it has on page 4 a couple of
13 bolded sections. It has orders of unusual
14 size, orders of unusual frequency, and orders
15 that deviate substantially from the normal
16 ordering pattern. And that's on page 4.

17 A. I see it.

18 Q. Okay. And those are the three
19 qualifiers that you testified to earlier that
20 any one of them can make up a suspicious
21 order, right? Based on the regulation.

22 A. I believe there's an "or" in
23 there, yes. I would say yes.

24 Q. Okay. So read to the jury
25 6.1.5, "Orders of unusual size." Read that

1 sentence to the jury, if you would, please.

2 A. "Orders of unusual size are
3 significantly larger than the orders normally
4 placed by the customer or by customers that
5 have a size and type of business that is
6 similar to the ordering customer's business."

7 Q. So according to Cardinal's own
8 policies and procedures, we need to be able
9 to compare a customer when we're looking at
10 orders of unusual size to that customer's
11 history or similar customers' histories,
12 correct?

13 A. Correct.

14 Q. And that will do what we just
15 talked about a moment ago. It will help us
16 to identify outliers, right?

17 A. Yes. Yes.

18 Q. And if it's of a significant
19 larger, then it is a suspicious order
20 according to Cardinal's own definition.

21 A. After reviewing all of the --
22 all of the factors around that particular
23 pharmacy, yes, it could be very well
24 considered that.

25 Q. Well, hold on now.

1 MR. PYSER: Object to form.

2 BY MR. FULLER:

3 Q. Hold on. Because you testified
4 earlier that the CFR requirement, 21 CFR
5 1301.74(b) --

6 A. Yes.

7 Q. -- in its definitions for
8 suspicious orders --

9 A. You're correct.

10 Q. -- was unusual size, unusual
11 frequency, or orders that deviate
12 substantially from the normal ordering
13 pattern, right?

14 A. That's correct. That's
15 correct.

16 (Cardinal-Morse Exhibit 8
17 marked.)

18 BY MR. FULLER:

19 Q. That doesn't say in that
20 regulation -- you -- here, let's pull up
21 4915. Because I want to give you that
22 regulation. It's up on the screen already
23 and I'm going to give you a hard copy. And I
24 want you to show me in that regulation,
25 because that's what you swore by, I want you

1 to show me in that regulation where it gives
2 any indication --

3 MR. FULLER: Here you go,
4 Mr. Pyser.

5 BY MR. FULLER:

6 Q. -- where it gives any
7 indication that you can consider other
8 circumstances surrounding the pharmacy. You
9 show that to the jury. You point -- just
10 point it out. And Gina here, she'll
11 highlight it. You point it out where it says
12 it.

13 A. It does not.

14 MR. PYSER: Object to form.

15 BY MR. FULLER:

16 Q. But wait, didn't you testify
17 earlier that those were the three factors
18 that make up a suspicious order?

19 MR. PYSER: Object to form,
20 asked and answered.

21 BY MR. FULLER:

22 Q. That's what your testimony was,
23 right?

24 A. Yes.

25 Q. The record will be clear.

1 A. Yes.

2 Q. And Madam Court Reporter took
3 it down, we recorded it. The jury has
4 already heard it.

5 So -- and according to
6 Cardinal's own policy, orders of unusual
7 size, which according to the regulation would
8 be a suspicious order, right?

9 A. Yes.

10 Q. Are significantly larger than
11 orders normally placed by the customer or --
12 right, "or"? No, no, no, I'm reading from
13 your policy and procedure -- "or by customers
14 that have a size and type of business that is
15 similar to the ordering customer's business."

16 A. Yes. That's what it says.

17 Q. Okay. So I just want to make
18 sure I'm right, that when we're looking at
19 suspicious orders and trying to identify them
20 that we need to make sure that we identify or
21 determine what that criteria is.

22 And so when we're looking at
23 orders of unusual size, it's those with
24 significantly larger orders than their normal
25 ordering pattern or ordering patterns of

1 other pharmacies of the same type and size,
2 correct?

3 MR. PYSER: Object to form.

4 A. Correct.

5 BY MR. FULLER:

6 Q. Okay.

7 A. According to this document, and
8 the regulation.

9 Q. And that's what Cardinal had to
10 follow, right? Cardinal had to follow the
11 regulation.

12 A. Uh-huh.

13 Q. Is that correct?

14 A. That's correct.

15 Q. Code of Federal Regulation
16 1301.74 (b) ?

17 A. Yes.

18 Q. We just had it up on the
19 screen? Okay.

20 Then if you go in the policy
21 and procedure to 6.1.6, can you read that
22 section to us?

23 A. "Orders of unusual frequency
24 are orders that significantly -- that occur
25 significantly more frequently than the orders

1 normally placed by the ordering customer or
2 by customers that have a size and type of
3 business that is similar to the ordering
4 customer's business."

5 Q. Okay.

6 A. May I re-read that myself.

7 (Document review by witness.)

8 BY MR. FULLER:

9 Q. I think you got it right.

10 A. When I'm reading something, I'm
11 not always digesting it, so thank you.

12 Q. I am the same way. I am
13 exactly the same way.

14 So this, much like orders of
15 unusual size, says that we have to look at
16 orders that occur significantly more
17 frequently than normally placed orders,
18 either by that customer or by similarly
19 situated customers, correct?

20 A. That's what it says. Correct.

21 Q. So, for example, if during your
22 time frame we looked at that Richmond
23 Pharmacy here in Texas that was ordering
24 large amounts every day, day after day, three
25 or four or five days, if that was unusual for

1 them, that would constitute a suspicious
2 order according to this definition, right?

3 A. This would be used to determine
4 that, yes.

5 Q. If it was unusual for similarly
6 situated pharmacies, it would also be a
7 suspicious order, even if they themselves
8 ordered all the time every day, right?

9 MR. PYSER: Object to form.

10 A. Restate the question, please.

11 BY MR. FULLER:

12 Q. Sure.

13 Let's say Pharmacy XYZ, and
14 we're looking at just orders of unusual
15 frequency right now.

16 A. Right.

17 Q. That's a classification of
18 suspicious orders according to the
19 regulation. That's your understanding,
20 correct?

21 A. Yes.

22 Q. Okay. And that's what Cardinal
23 understood and had to comply with, right?

24 A. Yes.

25 Q. Okay. So if we have Pharmacy

1 XYZ and it comes on as a new customer but has
2 always been ordering oxycodones every day,
3 even though it's normal for them, when we
4 compare that to other similarly situated
5 pharmacies and we see that ordering every day
6 is not normal, ABC, those orders would be
7 suspicious and they would need to be
8 reported, correct?

9 MR. PYSER: Object to form.

10 A. Those orders would be in orders
11 of interest. Ordering every day in
12 quantities of 100 versus another pharmacy
13 ordering in quantities of 200, the ordering
14 every day, the pharmacy ordering 100 to fill
15 the same number of prescriptions would be
16 more frequently, so that has to be taken into
17 account also.

18 BY MR. FULLER:

19 Q. Okay. Let's -- help me out
20 here, so let's go back to 4915. And I want
21 you to now show -- and Ms. Gina sitting here,
22 she'll highlight it -- you show us where in
23 this regulation that it talks about order of
24 interest.

25 A. It doesn't.

1 MR. PYSER: Object to form.

2 BY MR. FULLER:

3 Q. I mean, if you can point it out
4 in there, let's talk about it.

5 A. It doesn't.

6 Q. So these are suspicious orders
7 that it's defining in this regulation, right?

8 A. That's correct.

9 Q. And it says "orders of unusual
10 frequency," correct? Isn't that what the
11 regulation says?

12 A. That's the definition of a
13 suspicious order, correct.

14 Q. Read it. Read it. Help me
15 out. Let's look at it again, the last
16 sentence there. "Suspicious orders include
17 orders of" --

18 A. Unusual frequency.

19 Q. Well, no, read all of them to
20 me and let's underline them as we go along.

21 A. "Orders of unusual size, orders
22 deviating substantially from a normal pattern
23 and orders of unusual frequency."

24 Q. Okay. So if we have an order
25 of unusual frequency, either based on that

1 pharmacy's history or when compared to other
2 similarly situated pharmacies, that would be
3 a suspicious order according to the
4 definition, correct?

5 A. Once that is determined, yes.
6 It's an order of interest until it's reviewed
7 to determine whether or not that is indeed
8 true, to the best of our knowledge.

9 Q. Well, if it's --

10 A. Order of interest means that we
11 are reviewing it.

12 Q. So that's not in the regulation
13 anywhere, is it?

14 A. It's re- -- it's getting to the
15 point where it needs to be reviewed to
16 determine whether or not it is an order of
17 suspicion.

18 Like I mentioned a moment ago
19 with respect to this frequency, the frequency
20 of ordering can also be related to the sizes
21 that are being ordered.

22 Q. And that may be true. But the
23 policy and procedure says that orders of
24 unusual frequency are orders that occur
25 significantly more frequent than the orders

1 normally placed, right?

2 A. It goes further. "By the
3 ordering customer or by customers that have a
4 size and type of business that is similar to
5 the ordering customer's business."

6 So unusual frequency could
7 be -- the way this is worded, in order to
8 review, become an order of interest, it's
9 going to be an order that is outside of that
10 pharmacy's ordering pattern, frequency, or
11 those of a similar size. Those of a similar
12 size could very well be selling different
13 quantities.

14 That becomes an order of
15 interest. The pharmacist who reviews this, I
16 have to let them speak to what they use to
17 make that determination.

18 Q. Okay. So is your testimony
19 that it's Cardinal's position that you may
20 have an order of unusual frequency that is
21 not a suspicious -- strike that. Let me ask
22 it differently.

23 The regulation requires you to
24 report orders of unusual frequency, correct?
25 Yes or no?

1 A. Yes, it does.

2 Q. Okay. And Cardinal has
3 provided its own internal definition for
4 orders of unusual frequency, correct?

5 A. Correct.

6 Q. And it's consistent with your
7 knowledge of what an order of unusual
8 frequency should be, right?

9 A. Correct.

10 Q. It's either compared to their
11 own purchasing history or others similarly
12 situated, right?

13 A. Correct.

14 Q. And if it falls into that -- if
15 it meets that definition, it should be
16 reported to the DEA, as you testified to
17 earlier, correct?

18 A. Would you repeat the question?

19 Q. Yes, sir. If it's an order of
20 unusual frequency, it needs to be reported to
21 the DEA, right?

22 A. Correct.

23 Q. Okay. Let's go to the last
24 one, the last bolded section on 4226, and
25 that's orders that deviate substantially from

1 the normal ordering pattern. Can you read
2 that one to us, Mr. Morse?

3 A. "Orders that deviate
4 substantially from the normal ordering
5 pattern are orders that reflect a significant
6 deviation from the customer's normal orders
7 or that deviate substantially from the
8 ordering patterns of customers that have a
9 size and type of business that is similar to
10 the ordering customer's business."

11 Q. And if that occurs that we have
12 orders that deviate based on that definition
13 substantially from the normal ordering
14 pattern, that would also need to be reported
15 to the DEA, correct?

16 MR. PYSER: Object to form.

17 A. That is -- that is correct.

18 BY MR. FULLER:

19 Q. Okay.

20 A. May I have -- pause for a
21 moment and go back and read what the context
22 of these rules -- this SOP. It will take
23 just a second.

24 Q. Sure.

25 (Document review by witness.)

1 A. Okay. If the context of
2 this -- the context within this SOP is we
3 have -- a threshold becomes an order of
4 interest.

5 BY MR. FULLER:

6 Q. Okay. So let's go back to the
7 regulation.

8 A. May I finish my statement?

9 Q. Oh, sure, I'm sorry. I thought
10 you were done talking.

11 A. No. No, I was waiting on you.

12 In the context here, it says,
13 "The following orders are held or cut pending
14 review," it's under 6.1.1, "by QRA," and they
15 report any order that is deemed suspicious if
16 they meet one or more of these criteria. And
17 that's the criteria that we have just been
18 talking about, orders of unusual size,
19 frequency, and normal ordering pattern.

20 The order -- an order of
21 interest -- maybe I misstated what an order
22 of interest was previously. An order of
23 interest is one that you have not yet
24 determined whether it meets one of these, for
25 example, the threshold event, which is

1 specifically what this SOP is just talking
2 about in this section.

3 Q. Okay.

4 A. When they reach a threshold
5 event, then they go through and determine,
6 are one of these things met. And if they
7 are, it's reported.

8 Q. Okay. So let's -- let's talk
9 about that. Let's go back to 4915. It's up
10 on the screen in front of you. The jury can
11 see it.

12 A. Oh, uh-huh.

13 Q. You show us in here where it
14 says you have to have a threshold event
15 before you can have a suspicious order. Show
16 that -- point that out to the jury in the
17 regulation. Because that's --

18 A. It's not there.

19 Q. Because that's what Cardinal
20 has to comply with, right?

21 MR. PYSER: Object to form.

22 Let me make my objection before you
23 answer the question.

24 Go ahead.

25 --oOo--

1 BY MR. FULLER:

2 Q. That's what Cardinal has to
3 comply with, correct?

4 MR. PYSER: Object to form.

5 BY MR. FULLER:

6 Q. That's the law of the land,
7 right?

8 A. That is correct.

9 Q. That's been enacted since 1971,
10 right?

11 A. Uh-huh.

12 Q. Is that a yes?

13 A. Correct.

14 Q. Okay. That hasn't changed, has
15 it? That regulation that's up there, CFR --

16 A. The wording has not changed.

17 Q. Correct. 21 CFR 1301.74(b).

18 A. That's correct.

19 Q. That requirement has been there
20 since you started and even after you left,
21 correct?

22 A. The wording has not changed.

23 Q. Nowhere in there does it
24 suggest or say or even reference an order of
25 interest, does it?

1 A. No.

2 Q. Does it say that you have to
3 have a threshold event before you can report
4 a suspicious order?

5 A. It says in the first section --

6 Q. My question is: Does it say
7 that you have to have a threshold event --

8 MR. PYSER: Let him answer.

9 A. Let me answer the question,
10 please.

11 MR. PYSER: Let him answer the
12 question before you ask your next
13 question.

14 BY MR. FULLER:

15 Q. Okay.

16 A. "The registrant shall design
17 and operate a system to disclose." It
18 doesn't specify how that system is designed.
19 It says it must disclose -- it must be
20 designed and operate to disclose.

21 Cardinal's internal process in
22 designing this program, which was done before
23 I ever came on board, used threshold events
24 as a trigger to review whether or not it met
25 any of those criteria.

1 And if it did, according to
2 this policy and procedure, they were
3 reported.

4 Q. Great. So let's turn back to
5 page 19.

6 MS. VELDMAN: 4085.

7 BY MR. FULLER:

8 Q. 4085, Exhibit 2.

9 A. Page?

10 Q. Page 19.

11 A. Okay. You tell the jury, for
12 CVS 219, how many of these events, these
13 threshold events, were reported to the DEA as
14 suspicious orders. Do you know?

15 MR. PYSER: Object to form.

16 BY MR. FULLER:

17 Q. Just the ones for 219.

18 A. I wouldn't know. I would not
19 know. Those happened -- the threshold events
20 are handled by the pharmacist group that
21 reviews the threshold events. The threshold
22 events are reviewed by them and are -- excuse
23 me -- and are submitted to DEA by them.

24 Q. So --

25 A. I can't speak to -- I don't

1 know yes or no how many of these have been
2 reported.

3 Q. So would it shock you to know
4 that none of them were reported?

5 MR. PYSER: Object to form.

6 A. If the process was being used,
7 you'd have to discuss that with them as to
8 why they weren't or not. I -- shocked? They
9 had their process. I do not know what that
10 process was, so to be shocked would be,
11 I guess, inappropriate for me to be shocked.

12 BY MR. FULLER:

13 Q. But look at the numbers.

14 A. I know.

15 Q. I mean, you have a quarter of a
16 million pills going into -- dosage units
17 going into a single pharmacy in a single
18 month. What circumstances justify that?

19 MR. PYSER: Object to form.

20 BY MR. FULLER:

21 Q. Any?

22 A. I can't answer that.

23 Q. Why not? You're the one that
24 investigated circumstances at the pharmacies,
25 right?

1 A. I'm not the one that reviews
2 threshold events.

3 Q. I'm not saying you are.

4 A. I can't do that.

5 Q. You investigate pharmacies,
6 right?

7 A. We have boots on the ground. I
8 gather information for others to make
9 decisions.

10 Q. And you make recommendation as
11 to high risk or not high risk or medium risk
12 or low risk, right?

13 A. Yes.

14 Q. And so can you think of any
15 circumstances that justify a quarter of a
16 million pills going into a pharmacy?

17 A. Those determinations will be
18 made by -- outside my area. I cannot speak
19 to that with what they're -- what they
20 reviewed.

21 Q. I'm not asking what they
22 reviewed.

23 A. I have no earthly idea -- oh.

24 Q. I'm asking you if you have any
25 idea what circumstances would justify, if you

1 can tell this jury any circumstances that you
2 believe would justify a quarter of a million
3 pills going into a single pharmacy in a
4 single month.

5 A. Not without having --

6 MR. PYSER: Object -- hold on,
7 hold on. Object to form, object to
8 form on the last three, four
9 questions.

10 You've got to slow down.

11 THE WITNESS: Okay.

12 MR. PYSER: Let me make an
13 objection, if necessary, before you
14 answer the question. Thank you.

15 You can go ahead and answer the
16 question if you remember what the last
17 one was.

18 BY MR. FULLER:

19 Q. Let's go to page 22.

20 A. Would you state that last
21 question again?

22 Q. No, I'm moving on.

23 A. Okay.

24 Q. Go to page 22. Go to (iii).

25 "Respondent reported no suspicious orders at

1 either of the CVS facilities (5195 or 219) or
2 the independent retail pharmacies CareMed or
3 Brooks, except for two suspicious orders made
4 to the DEA on December 1, 2011, for
5 CVS 19 [sic], well after the service of the
6 Administrative Inspection Warrant."

7 So Cardinal decided not to
8 report CVS, apparently, until after getting
9 served with a warrant by the DEA. Right?

10 MR. PYSER: Object to form.

11 A. I don't know why they didn't
12 report. I don't know why they reported. I
13 can't speak to that.

14 BY MR. FULLER:

15 Q. Right. But clearly, they
16 didn't report until after they got served
17 with an immediate inspection warrant --

18 A. That's correct.

19 Q. -- on December 1st --

20 A. That's correct.

21 Q. -- 2011, right?

22 A. According to that document,
23 yes.

24 Q. You don't have any reason to
25 disagree with this document, do you?

1 A. Are we -- are we in
2 allegations, still, here? I think we are.

3 What they did, I can't speak to
4 with respect to why they didn't report those,
5 if they reported those, or how many they
6 reported. I can't speak to that.

7 Q. Well, we know they reported two
8 related to those four pharmacies.

9 A. That's what this document says.

10 Q. But not until after being
11 served with an immediate inspection warrant
12 by the DEA. And we saw earlier, right, that
13 this issue was being brought to their
14 attention. We read about a meeting in
15 Washington where they asked about Florida
16 pharmacies and pay attention to the chains.
17 Remember that?

18 MR. PYSER: Object to form,
19 mischaracterizes.

20 BY MR. FULLER:

21 Q. Do you remember that?

22 A. Yes.

23 Q. We talked about how Mallinckrodt
24 brought the letter related to Gulf Coast.
25 You remember that, correct?

1 A. Yes.

2 Q. All right. So let's go to the
3 next page, page 23. "Following the service
4 of the Administrative Inspection Warrant, or
5 IAW, from January 1, 2012 to February 3rd,
6 2012, the date of service of the Immediate
7 Suspension Order" -- and you're aware and we
8 looked at it earlier, that Cardinal got an
9 immediate suspension order for the Lakeland
10 facility, correct?

11 A. Yes.

12 Q. -- "Cardinal reported 173
13 suspicious orders, none of which concerned
14 its top four retail pharmacy customers."

15 Do you see that?

16 A. I see it.

17 Q. Do you know how many -- and
18 that's -- I'm sorry, January 1st of 2012 to
19 February 3rd, 2012, just over a month, right?

20 A. Yes.

21 Q. 33 days or so. Correct?

22 A. Yes.

23 Q. Report 173 suspicious orders.

24 Do you see that there?

25 A. Yes.

1 Q. Do you know how many they
2 reported in the three years earlier?

3 A. No.

4 Q. Any idea?

5 A. No.

6 Q. Well, let's go back a page.

7 Page 22, under section (i). "From
8 October 1st, 2008" -- shortly after you
9 started with the company, right?

10 A. Yes.

11 Q. -- "through October 26, 2011,
12 Respondent reported only 41 suspicious orders
13 to the DEA." 41. The whole state of
14 Florida, 41 suspicious orders. And then
15 within a month they report 173 after they get
16 served with an administrative inspection
17 warrant?

18 MR. PYSER: Object to form.

19 BY MR. FULLER:

20 Q. I mean, can we agree it looks
21 like somebody may have been falling asleep at
22 the wheel?

23 MR. PYSER: Object to form.

24 A. I can't answer that. I'm not
25 sure what they looked at. It's not my area.

1 BY MR. FULLER:

2 Q. Well, we know what they weren't
3 looking at, right?

4 MR. PYSER: Object to form.

5 BY MR. FULLER:

6 Q. We know they weren't visiting
7 the CVS pharmacies, don't we?

8 MR. PYSER: Object to form,
9 asked and answered.

10 A. They were not visiting the
11 pharmacies, the CVS pharmacies.

12 BY MR. FULLER:

13 Q. And not just in Florida. That
14 was everywhere in the country, correct?

15 MR. PYSER: Object to form.

16 BY MR. FULLER:

17 Q. It was all CVSSs.

18 A. I can't -- I can't confirm
19 that, but it may or may not have been all
20 pharmacies -- all CVSSs.

21 Q. They weren't getting the sales
22 of Schedule IIIs or non-controlleds from CVS
23 either, were they?

24 MR. PYSER: Object to form.

25 A. Restate the question.

1 BY MR. FULLER:

2 Q. Cardinal wasn't receiving the
3 sales data that CVS had for whatever it was
4 distributing to itself either, correct?

5 MR. PYSER: Object to form.

6 A. We established that in Florida
7 earlier.

8 BY MR. FULLER:

9 Q. Well --

10 A. Yes.

11 Q. I mean, it's CVS. It's
12 everywhere. They weren't getting prescriber
13 information either, correct? I mean, they
14 said they were adamant about not providing
15 that.

16 A. I do not know that for a fact.

17 Q. Did your team ever get any?

18 A. Do any CVS visits?

19 Q. No, no. Did you guys ever get
20 any prescriber information from CVS?

21 A. Not that I am aware of. They
22 may or may not have.

23 Q. Did anybody in your team ever
24 get the sales data from CVSs anywhere?

25 A. Not that I am aware of whether

1 they did or didn't.

2 Q. Did your team ever get the drug
3 utilization reports for CVSs anywhere?

4 A. Drug utilization report?

5 Q. Yeah. What's going out the
6 doors for the pharmacies -- from the
7 pharmacy.

8 A. That's -- I wanted to be sure I
9 understood what you were talking about. I
10 can't with -- I can't say yes or no to that.
11 I think a yes.

12 Q. Do you remember any?

13 A. I do not remember any. Maybe,
14 maybe not.

15 Q. Okay. You don't remember any?

16 A. No, I don't remember any. I
17 never saw any.

18 Q. So what causes you -- okay.
19 You never saw any, fair enough.

20 A. How about that.

21 Q. I got it.

22 Let's go to page 29. We see
23 here at the top, it says, "Based on
24 GS Carter's review of the due diligence
25 files, Respondent failed to conduct due

1 diligence." And GS Carter is Group
2 Supervisor Carter, she's a DEA agent, I'll
3 represent to you.

4 It says, "At a minimum,
5 Respondent never conducted a site visit for
6 CVS 5195, absent an unidentified photo of CVS
7 store located in Respondent's due diligence
8 files, and relied upon by CVS to conduct its
9 own due diligence."

10 You would agree with that, you
11 know of no site visits to CVS 5195, correct?

12 A. Not an investigative site
13 visit, no.

14 Q. Fair enough.

15 "Finally, GS Carter will
16 testify to a telephonic conversation she had
17 with Karen Gibbs, CVS corporate attorney, on
18 October 18, 2011, wherein GS Carter inquired
19 about the recent contact between CVS and
20 Cardinal Health, which precipitated a
21 suspicious order monitoring audit at CVS 5195
22 conducted by CVS District Pharmacy Supervisor
23 Jennifer" -- I'm going to go with Lalani,
24 L-A-L-A-N-I, "on October 14th, 2011.

25 "According to the conversation,

1 Ms. Gibbs stated that a representative from
2 Respondent contacted CVS corporate office to
3 report that Mallinckrodt had noticed high
4 oxycodone sales to three Florida pharmacies
5 and asked CVS to go out to these pharmacies
6 and ensure that oxycodone purchases were
7 legitimate."

8 And again, that supports that
9 CVS was doing their own due diligence,
10 correct?

11 MR. PYSER: Object to form.

12 A. At this particular pharmacy,
13 yes.

14 BY MR. FULLER:

15 Q. And if we go back further to
16 page 33 -- well, let me ask. So if -- and
17 you mentioned earlier that you've done a lot
18 of site visits, investigative visits on-site
19 at pharmacies. If you go there and a manager
20 of the pharmacy is referring to himself as a
21 bouncer because customers get rowdy when the
22 pharmacist decides not to fill any more
23 prescriptions, that would be a concern,
24 right? That would be a red flag?

25 MR. PYSER: Object to form.

1 A. Not necessarily.

2 BY MR. FULLER:

3 Q. Fair enough.

4 It wouldn't be a red flag if
5 they're known as a bouncer because of people
6 getting rowdy when they're told they're not
7 going to get their prescriptions filled,
8 particularly for controlled substances?

9 A. I've been on the receiving end
10 of some of that irritation when you don't
11 fill a prescription for a patient, that's --
12 that's correct.

13 MR. PYSER: Object to form.

14 BY MR. FULLER:

15 Q. And that wouldn't send up a red
16 flag?

17 MR. PYSER: Object to form.

18 BY MR. FULLER:

19 Q. That's my question. Did you
20 have a general manager known as a -- a store
21 manager known as a bouncer because of those
22 issues?

23 MR. PYSER: Object to form.

24 A. That would be of interest,
25 I guess, because what's the area that they're

1 in? I have to know the context on that.

2 They may be in an area that's a tough area.

3 And is the bouncer -- let me

4 ask you a question here. Is the bouncer --

5 well, I mean, let me rephrase that. A

6 bouncer could be there just to handle

7 shoplifting or others in the pharmacy and

8 they also, when somebody gets irritated over

9 a prescription for whatever reason, takes

10 care of that situation.

11 BY MR. FULLER:

12 Q. Were you also aware --

13 A. Could be.

14 Q. -- that Cardinal wasn't

15 notifying the DEA of suspicious orders but

16 they were focused on notifying of suspicious

17 customers when they were cutting them off?

18 MR. PYSER: Object to form.

19 BY MR. FULLER:

20 Q. Did anybody ever share that

21 with you?

22 A. Once -- once we got to the

23 point of identifying a suspicious order, then

24 we notified them of the customer. My role

25 was to notify DEA of the customer being shut

1 off. Whether it was reported to DEA, I
2 don't -- I have no --

3 Q. Well, I mean, if you're telling
4 DEA, that's sort of reporting it to DEA,
5 right?

6 A. My role was to report the
7 pharmacy.

8 Q. Oh, you would tell the
9 pharmacy.

10 A. Yeah.

11 Q. I'm sorry.

12 A. No, I would report the pharmacy
13 to DEA, that we had cut this particular
14 pharmacy -- we have discontinued the sale of
15 prescription products, specifically
16 controlled substances, to the pharmacy.

17 Q. And was that the pattern that
18 Cardinal, when it reported a suspicious
19 order, that it was also discontinuing
20 services to the pharmacy?

21 A. I can't say yes or no to that.
22 I don't know.

23 Q. Are you aware of any suspicious
24 orders that were reported where the pharmacy
25 wasn't being terminated as a controlled

1 substance customer?

2 A. I am not aware of any. May or
3 may not have been.

4 Q. So all of the ones that you are
5 aware of where suspicious orders were
6 reported over the years also involved cutting
7 off the customer from controlled substances,
8 correct?

9 A. That's when I would have been
10 involved with it, yes.

11 Q. Fair enough.

12 Let's go to page 36. You see
13 Gulf Coast? That's down in Fort Myers,
14 Florida, right?

15 A. Sounds right. I'm not sure if
16 it's Fort Myers, but yes --

17 Q. You've been there, haven't you?

18 A. Yes, I have been there, but --

19 Q. Okay.

20 A. -- the memory, Fort Myers, yes,
21 probably. I don't know.

22 Q. So if you'd turn to the next
23 page, it says, "A review of the ESOM" -- do
24 you know what ESOM stands for, Mr. Morse?
25 Does electronic monitor -- electronic system

1 suspicious order monitoring sound familiar?

2 A. I'm not familiar with that
3 term. I don't recall ever using or being
4 familiar with that term.

5 Q. Fair enough.

6 A. Is there another name for it,
7 maybe?

8 Q. Nope.

9 A. Okay.

10 Q. It says, "A review of the ESOM
11 file for Gulf Coast revealed that of 61
12 shipments held for Gulf Coast, 52 shipments
13 were released, 9 shipments were cut by
14 Respondent, which consisted of four duplicate
15 orders and five cut orders."

16 Is it your understanding that
17 cut orders should be reported to the DEA as
18 suspicious?

19 MR. PYSER: Object to form.

20 A. I do not know.

21 BY MR. FULLER:

22 Q. Well, do you know what a cut
23 order is?

24 A. I guess I -- not definitively,
25 no.

1 Q. What do you believe a cut order
2 is?

3 A. What I believe a cut order is?

4 Q. Yes, sir.

5 A. A guess?

6 Q. Go ahead.

7 A. No, sir.

8 MR. PYSER: Object to form.

9 BY MR. FULLER:

10 Q. Tell us what your understanding
11 of cut order is.

12 A. I do not know what a cut order
13 is.

14 Q. So you have no idea what a cut
15 order is.

16 MR. PYSER: Object to form.

17 BY MR. FULLER:

18 Q. When an order is cut? Is that
19 right?

20 MR. PYSER: Object to form.

21 A. When an order -- well, if you
22 say it that way, when an order is cut, then
23 that order did not go to the customer.

24 BY MR. FULLER:

25 Q. And if an order is cut, should

1 that be reported to the DEA?

2 MR. PYSER: Object to form.

3 BY MR. FULLER:

4 Q. If you know.

5 A. I don't know the answer to
6 that. I don't know what --

7 Q. Fair enough.

8 A. -- what was reviewed.

9 Q. It says further down in that
10 paragraph, "Respondent did not make any
11 suspicious order reports to the DEA regarding
12 Gulf Coast, including with respect to the
13 five non-duplicate cut orders occurring on
14 April 17th, 2009; September 21st, 2009;
15 December 3rd, 2009; and October 4th, 2011."

16 Do you see that there?

17 A. I do.

18 Q. It mentions the cut orders and
19 they weren't reported, right?

20 A. Those are the dates for the
21 five cut orders. Okay, I see it.

22 Q. It says, "Based on customer
23 files, Respondent conducted five" -- that
24 means Cardinal -- "conducted five QRA site
25 visits."

1 What's QRA stand for?

2 A. Quality regulatory.

3 Q. And Gulf Coast isn't a
4 CVS-owned pharmacy, right?

5 A. Excuse me?

6 Q. Gulf Coast is not a CVS-owned
7 pharmacy, is it?

8 A. No.

9 Q. It's not a chain, it's what's
10 called a retail independent, correct?

11 A. Yes.

12 Q. It says, "conducted five QRA
13 visits, four of which were conducted by
14 Mr. Moellering and one conducted by
15 Mr. Morse," who would be you, right?

16 A. Yes.

17 Q. And who is Mr. Moellering?

18 A. He was the investigator for the
19 Florida area reporting to me.

20 Q. And it says, "On August 12,
21 2008, Mr. Moellering conducted a site visit
22 wherein he noted the site was 'low risk for
23 diversion.' On April 30, 2009,
24 Mr. Moellering conducted a second site visit
25 wherein he noted: 'Owner states higher cash

1 sales due to loss of insurance by customers;
2 reported hearsay from individuals claiming
3 that this pharmacy would only accept cash for
4 oxycodone and sold it by the pill.'" "

5 That would be a red flag
6 indicator, would it not?

7 A. Would be something to consider,
8 yes.

9 Q. Why is that? Why would it be
10 something to consider? Because if we're
11 dealing in cash only, it's not running
12 through insurance companies anymore, correct?

13 A. Yes.

14 Q. And selling by the pill is
15 probably not filling a full prescription. We
16 can agree on that as well, right?

17 A. This is an allegation.

18 Q. Well, it's --

19 A. It was reported. Is it true,
20 is it not.

21 Q. It's information that one of
22 your investigators wrote in his report,
23 right?

24 A. Right. And he reported it as
25 hearsay.

1 Q. He did. But how else is he
2 going to report it?

3 A. I don't understand the
4 question.

5 Q. Well, how else is he going to
6 report it? Hearsay is something that
7 somebody else said. Mr. Moellering can't say
8 that they were only giving me one
9 prescription or one pill per prescription
10 because Mr. Moellering didn't get
11 prescriptions filled there, did he?

12 A. Who are the individuals? Okay.
13 If it's hearsay information, he had received
14 it from someone else is your definition of
15 hearsay information.

16 Q. What's your definition of
17 hearsay information?

18 A. I don't know the definition of
19 "hearsay information."

20 Q. Okay.

21 A. Hearsay information for me,
22 when I hear "hearsay," I think unreliable.
23 Sorry.

24 Q. Okay. No, that's fair. That's
25 fair. I mean, it probably was somebody

1 unreliable. It's probably someone seeking
2 drugs who said it to Mr. Moellering when he
3 was walking out of the drugstore.

4 MR. PYSER: Object to form.

5 Move to strike.

6 BY MR. FULLER:

7 Q. It says, "'Twice during the
8 interview, I specifically asked Mr. Green how
9 most of the customers paid for pain
10 medications. He related some had insurance
11 while others have to pay cash due to losing
12 their insurance. He would not say anything
13 about charging by the pill or accepting cash
14 only.'

15 "On December 11th,
16 Mr. Moellering conducted a third site visit.
17 He noted that" -- and let me ask, let me stop
18 there. Why is he going back so many times in
19 such a relatively short time frame?

20 A. He was requested to.

21 Q. By whom? Do you know who would
22 have made this request?

23 A. It would have been the
24 pharmacist reviewing the threshold events or
25 Mister -- or as we've stated earlier,

1 Mr. Moné.

2 Q. It could have been anybody in
3 the hierarchy, right?

4 A. Yes.

5 Q. Because as you mentioned
6 earlier, I think, is if anybody had a
7 concern --

8 A. It would filter through, yes.

9 Q. Maybe even the PBC. If the
10 sales rep had a concern, he could filter it
11 through as well, right?

12 A. Others made the decision as to
13 if it needed to be visited.

14 Q. Got it.

15 I'm sorry. So "He would not
16 say anything"...

17 Okay. I'm sorry. "On
18 December 11th, 2009, Mr. Moellering conducted
19 a third visit. He noted as per this
20 particular visit: 'Does not present a
21 significant risk for diversion.' And on
22 October 5th, 2010, Mr. Moellering and
23 Mister" -- is that Moro? Do you know who
24 that is? And if you don't, that's fine.

25 A. He's a sales rep, but that is a

1 hazy recollection.

2 Q. Okay. "Mr. Moro conducted a
3 site visit. Notes from the particular site
4 visit reflect the following: 'CAH, PBC'" --

5 A. Stop. Oh, Lenny Moro, I'm
6 sorry. I saw Lenny, I thought this was a
7 different person. I apologize.

8 Q. Okay.

9 A. So he is the pharmacy
10 salesperson.

11 Q. Okay. "'Lenny Moro, has
12 observed groups of white males and females
13 coming into the pharmacy during the late
14 afternoon visits to have their scripts
15 filled; they leave in small groups.' The
16 report also stated: 'Owner requested an
17 increase in oxycodone thresholds even
18 higher - dispensing data revealed that
19 462,776 units of oxycodone dispensed within
20 two months.' 'I am not convinced that the
21 owner is being forthright pertaining to his
22 customers' -- customers' origin or residence.
23 I have requested permission to contact the
24 DEA to resolve this issue.'"

25 Do you recall Mr. Moellering

1 requesting permission to contact the DEA?

2 A. Yes.

3 Q. Was he permitted to contact the
4 DEA or do you recollect?

5 MR. PYSER: Object to form.

6 A. Yes.

7 BY MR. FULLER:

8 Q. So he was allowed to call the
9 DEA? Fantastic. Let's keep reading. "High
10 risk of diversion."

11 MR. PYSER: Object to form.

12 BY MR. FULLER:

13 Q. "Despite Moellering's findings
14 and recommendations, Respondent," meaning
15 Cardinal, "did not contact DEA. Respondent
16 not only continued to ship oxy 30-milligram
17 tablets to Gulf Coast, but subsequently
18 increased shipments shortly thereafter."

19 Now, this was his visit in
20 October, right? October 5th.

21 A. May I make a clarification,
22 then? The question you asked me, did he
23 have -- was he given permission to contact
24 DEA.

25 Q. Yep.

1 A. He did so. Once.

2 Q. And who gave him -- who had to
3 give him permission?

4 A. This -- I did. I did. He
5 asked me "Can I contact DEA," and I said yes.

6 Q. Okay.

7 A. This particular situation must
8 be a different situation. I don't remember
9 this situation.

10 Q. Oh, so you're talking about he
11 may have asked related to something else?

12 A. I don't -- it was related to
13 Gulf Coast.

14 Q. But it may be on a different
15 occasion?

16 A. I don't know whether it was
17 prior to this, after this. Obviously it
18 sounds like from this one it was not this
19 one.

20 Q. Fair enough. Fair enough.

21 So --

22 A. Does that clarify any question?

23 Q. Yes, sir. Yes, sir.

24 So this investigation was
25 conducted on October 5th, right, if you go

1 back a page.

2 A. Looks like that's October 5th,
3 yes.

4 Q. So then on November 24th -- and
5 again, he rated this facility as high risk of
6 diversion, but then "On November 24th,
7 Respondent adjusted Gulf Coast's monthly
8 volumes of oxycodone from 141,000 to
9 207,200."

10 Do you see that?

11 A. "Despite" -- I'd like to read
12 it here. Where are we? "With respect to
13 Mr. Moellering's" -- okay, there we go, I
14 gotcha.

15 (Document review by witness.)

16 A. Okay, your question again?

17 BY MR. FULLER:

18 Q. Well, my question is, in
19 October, one of your -- and granted, I've
20 looked through a lot of Cardinal documents.
21 It appears Mr. Moellering did a lot of
22 investigations for you and was based out of
23 Lakeland. Is that right?

24 A. Correct.

25 Q. And seemed to be a relatively

1 good investigator for Cardinal, correct?

2 A. Correct.

3 Q. And in October, he's asking to
4 call in the DEA and labeling this as a high
5 risk for diversion, citing all his reasons
6 for that. And then in November -- again,
7 I guess it's not your department, but again,
8 in November, Cardinal again is increasing the
9 thresholds by another 25%. Over 25%. From
10 140 dosage units per month for oxycodone
11 alone to 207, right?

12 A. Correct.

13 Q. Well, let's -- does that cause
14 you any concern? I mean, maybe there's a
15 disconnect between the people setting
16 thresholds and the people doing
17 investigation, because they're separate
18 department or separate areas, separate
19 persons, correct?

20 A. The information -- no, that is
21 not correct. Excuse me.

22 Q. They're not separate persons?

23 A. There's not a disconnect, speak
24 to that. The --

25 Q. So --

1 A. The reports go into the
2 customer's --

3 Q. The due diligence file?

4 A. -- the due diligence file, I
5 think, whatever we call it, so they're
6 available to the person reviewing threshold
7 events.

8 Q. So the people that were
9 releasing the orders that we read about
10 earlier that are increasing these thresholds,
11 they have all this information at their
12 fingertips, right?

13 MR. PYSER: Object to form.

14 A. They can get this information.

15 BY MR. FULLER:

16 Q. Now, you don't know sitting
17 here today whether they actually looked at it
18 or not, do you?

19 A. I cannot.

20 Q. Okay. You would suspect, or
21 hope, at least, that if somebody is sending
22 you out there to do the investigations, that
23 they're going to use the information you give
24 them, right?

25 MR. PYSER: Object to form.

1 A. Correct.

2 BY MR. FULLER:

3 Q. Okay. Let's go on. "With
4 respect to Mr. Moellering's October 5th
5 findings, the PDF customer file contained the
6 following notations: October 29th,
7 Respondent stated: 'Review -- reviewed, no
8 changes.' On the same date, regarding the
9 SOM oxycodone event of 147,700 [sic] for
10 October 2010, Respondent released the
11 shipment, stating: 'Not unreasonable, order
12 released, no threshold adjustment.' By
13 releasing the shipment of 147,000 -- excuse
14 me -- 144,700, Respondent filled an order
15 that exceeded the monthly threshold for
16 Oxycontin of 141,000 then in effect for
17 Gulf" -- then in effect for Gulf Coast that
18 Respondent itself established.

19 I mean, somebody should have
20 been reading their file when they're doing
21 this, right?

22 MR. PYSER: Object to form.

23 BY MR. FULLER:

24 Q. Whoever is approving this
25 order.

1 A. I don't know if they did or
2 didn't.

3 Q. Right. But they sure should
4 be. You would agree with that, right?

5 MR. PYSER: Object to form.

6 A. I don't know if they did or
7 didn't.

8 BY MR. FULLER:

9 Q. But they should be, correct?

10 A. Information is available.

11 MR. PYSER: Object to form.

12 Before you answer the question, please
13 let me object if necessary. Sorry to
14 interrupt your questioning.

15 MR. FULLER: That's all right.

16 BY MR. FULLER:

17 Q. You don't know if they used it,
18 do you?

19 A. No.

20 Q. But they should?

21 MR. PYSER: Object to form.

22 BY MR. FULLER:

23 Q. Can we agree on that?

24 MR. PYSER: Object to form.

25 A. That's the way I believe our

1 system was set up, yes.

2 BY MR. FULLER:

3 Q. At least it was supposed to
4 work that way, correct?

5 A. Yes.

6 Q. Okay. Then "On
7 November 9th" -- this is, again, just a few
8 days later, "Mr. Morse" -- that would be you,
9 right?

10 A. Yes.

11 Q. -- "wrote a memorandum to the
12 file which stated: 'The primary prescribers
13 identified by the pharmacy -- pharmacy owner
14 are local, one exception being an orthopedic
15 surgeon.'"

16 Now, again, that's like the
17 information we talked about getting from CVS.
18 Sometimes it's helpful to gain that
19 information, correct?

20 A. Correct.

21 Q. Okay. And then you say, "'Not
22 unreasonable.' The fill -- the file further
23 reflected: 'Pharmacy is medium risk and
24 subject to close monitoring.' On
25 January 28th, 2011, Gulf Coast owner, Jeff

1 Green, provided a survey response which
2 stated the limit needs to be raised to 450
3 bottles per week."

4 Did I read that right?

5 MR. FULLER: Underline that.

6 A. I see it. You read it right.

7 BY MR. FULLER:

8 Q. 450 bottles a week. 100 bottle
9 count, that's how many pills. That's 45,000
10 pills per week.

11 A. Correct.

12 Q. I mean, his request alone
13 should send up red flags, correct?

14 MR. PYSER: Object to form.

15 A. With -- without a context, I
16 would say, yes. With a context, maybe not.

17 BY MR. FULLER:

18 Q. And we need to know the
19 context. We need to look at his due
20 diligence file and see the context. We've
21 seen what Mr. Moellering has written about
22 them, right?

23 A. Uh-huh. Yes.

24 Q. "High risk of diversion" is
25 what Mr. Moellering last wrote in October,

1 isn't it?

2 A. In October, yes.

3 Q. "On February 17th, 2011, a site
4 visit conducted by Mr. Morse" -- now, this
5 time you're not just doing a memo to the
6 file; you're actually going out there, aren't
7 you?

8 A. Yes.

9 Q. Did you take Mr. Moellering
10 with you? He had been out there four times
11 already.

12 A. Not at this time.

13 Q. Why not? He had already been
14 out there a bunch.

15 A. I spoke with Mr. Moellering.

16 Q. Well, sure.

17 A. And got the information I
18 needed from him to use in the investigation.
19 I went to see and did the investigation and
20 my visit based upon I wanted to have a
21 discussion with the owner.

22 Q. And it says that you noted that
23 the pharmacy was medium risk for diversion.
24 "Nonetheless, Respondent increased Gulf
25 Coast's order thresholds 3 times in the

1 following four months. The dates and amount
2 of the adjustments are as follows."

3 A. Uh-huh.

4 Q. On April '11 it went from
5 207,000 to 245. Same month, at the end,
6 April 27th, 2011, 245,000 to 265,000. Then
7 in May, on the 26th, 211,000 -- excuse me,
8 2011, 265,000 to 317,000 dosage units in a
9 month.

10 It says, "These increases
11 constitute a 65% increase in Cardinal's
12 authorized shipment volume of oxycodone over
13 a two-month period."

14 After the time you visited and
15 all these additional increases were going on,
16 was there any more visits that you're aware
17 of to Gulf Coast?

18 A. On January -- no, I went on
19 February 17th of 2011.

20 Q. And this is May.

21 A. May --

22 Q. I haven't seen any. I'm just
23 wondering if you recollect anything.

24 MR. PYSER: Object to form.

25 A. I do not -- I do not recall

1 any.

2 BY MR. FULLER:

3 Q. Okay. And then we know, the
4 end of 2011, DEA comes and serves Mr. Green
5 with administrative inspection warrant and
6 Mr. Green voluntarily turns in his DEA
7 registration, doesn't he?

8 A. Correct.

9 Q. I mean, you knew that when it
10 happened, right?

11 A. Correct. We had determined at
12 that time -- prior to that time, we became
13 aware that Mister --

14 Q. Green?

15 A. -- Green -- is that the
16 pharmacy owner there -- had not been
17 forthright in his information he provided.
18 When that happened, he was terminated
19 immediately, once we realized the
20 self-reporting information he gave to us was
21 incorrect and not accurate.

22 Q. Well, Mr. Moellering pointed
23 that out way back in October, didn't he?

24 A. Let's go back and take a look
25 at it. Where?

1 Q. Mr. Moellering, "I am not
2 convinced that the owner is being forthright
3 pertaining to his customers' origin or
4 residence."

5 A. Yes.

6 Q. "I have requested permission to
7 have DEA resolve this issue."

8 A. Yes.

9 Q. And it took --

10 A. That is self-reported
11 information.

12 Q. It took Cardinal another year?

13 A. That's not the information that
14 we found to be inaccurate. We have no way of
15 checking that information. The --

16 Q. And again, this goes back to a
17 fundamental question. What were -- I mean,
18 let's go to our policies and procedures.
19 What were like, similarly situated pharmacies
20 getting? Who compared that? Because we know
21 we had threshold events. We had them all the
22 time.

23 A. The people who were reviewing
24 threshold events.

25 Q. So that would be the

1 pharmacy -- the pharmacist. Weren't most of
2 those people pharmacists? Who reviewed
3 threshold events? Tell the jury.

4 A. I would think at that time --

5 Q. Anytime. Give me them all.

6 Best you can, at least.

7 A. I can only give you in my time
8 there, and that would have been -- they were
9 all pharmacists.

10 Q. Tell me some of the names.

11 A. The two I remember are Chris
12 Forst -- excuse me -- and Michael Moné.
13 Chris --

14 Q. Okay. What about --

15 A. Chris Forst did have other
16 pharmacists who were helping him that I don't
17 remember the names or how many.

18 Q. How about Anna-Soisson? Is
19 that right, Anna-Soisson?

20 A. That's one of them, yes.

21 Q. Okay. That's the only other
22 name I knew.

23 A. But that was not the only one.
24 There was at least one other.

25 Q. But you would agree with me,

1 based on the policies and procedures that we
2 saw, we should be able to look somewhere and
3 see that that comparison was done, right?

4 MR. PYSER: Object to form.

5 A. If the comparison was done,
6 yes, that's recorded in the --

7 BY MR. FULLER:

8 Q. Due diligence file?

9 A. No, it's recorded in the review
10 of threshold events.

11 Q. Well, so my -- let's make sure
12 that you and I are on the same page.

13 A. Maybe we're not talking about
14 the same thing, okay.

15 Q. We have a pharmacy now that's
16 getting thresholds well over a quarter of a
17 million pills per month of oxycodone,
18 correct?

19 A. Yes.

20 Q. I'm asking, where would we look
21 to see that comparison that we read about in
22 the policies and procedures that compare
23 similarly situated pharmacies to see if we
24 have an outlier here with Gulf Coast? And my
25 understanding of your testimony is that would

1 be the pharmacist threshold people --

2 A. Yes.

3 Q. -- that would do that type of
4 analysis.

5 MR. PYSER: Object to form.

6 Go ahead and answer.

7 A. Yes.

8 BY MR. FULLER:

9 Q. Okay. And we should see that
10 documented somewhere, that they did the --
11 again, like your investigations, that they
12 did this analysis, this is their findings and
13 this is how they're justifying increasing the
14 thresholds.

15 MR. PYSER: Object to form.

16 A. I cannot speak to where they
17 would have -- how they would have documented
18 it.

19 BY MR. FULLER:

20 Q. No, but it should be documented
21 somewhere, right?

22 MR. PYSER: Object to form.

23 A. I would say yes.

24 MR. PYSER: Let's --

25 MR. FULLER: I want to take a

1 break and I'll get you the lunch
2 things.

3 MR. PYSER: Let's just break.
4 It's almost 1:00 o'clock. I think we
5 can break for lunch.

6 MR. FULLER: Yeah.

7 THE VIDEOGRAPHER: Off the
8 record at 12:47. This concludes
9 Tape 3.

10 (Recess taken, 12:47 p.m. to
11 2:17 p.m.)

12 THE VIDEOGRAPHER: All right,
13 stand by. Okay. We are back on the
14 record at 2:17. This begins Tape 4.

15 BY MR. FULLER:

16 Q. All right, Mr. Morse. This
17 document is going to need an exhibit sticker.

18 (Cardinal-Morse Exhibit 9
19 marked.)

20 MS. VELDMAN: That was --

21 MR. FULLER: Sorry, 2650. It's
22 going to be Plaintiffs' Exhibit 9 for
23 the record.

24 BY MR. FULLER:

25 Q. These are three letters that

1 were sent to Cardinal by the DEA, by a
2 gentleman by the name of Joe Rannazzisi.

3 Have you ever seen any of these
4 letters before? The first one is all the way
5 at the back. It was sent on September 27th
6 of 2006. The second one, which is virtually
7 identical to the first one, was sent on
8 February 7, 2007, and the final one,
9 December 27th, 2007 --

10 A. Give me a moment to read them.

11 Q. -- all produced to us by your
12 lawyers.

13 A. Okay.

14 (Document review by witness.)

15 BY MR. FULLER:

16 Q. Do you recall ever seeing
17 those?

18 A. You say the first one and the
19 second one seem to be the same? Do you know
20 what the differences were? You said they
21 were essentially the same.

22 Q. You're more than welcome to
23 take a look at them. Do you recall ever
24 reviewing any of the letters from the DEA?

25 A. I recall reviewing a letter

1 from DEA. I am not sure -- this is years
2 ago, of course.

3 Q. Do you know what that letter --

4 A. I don't remember if -- I don't
5 think it was this third one. I believe it
6 was one or either of these first two from --
7 the earlier ones.

8 Q. Okay. Fair enough.

9 So if you look at the one from
10 September --

11 A. I was given it just as
12 historical information at the time.

13 Q. So that would have been around
14 the time you started?

15 A. Yes.

16 Q. Is that your recollection?

17 A. Uh-huh. Yes.

18 Q. So let's look at the one from
19 September 27th of 2006. Do you have that in
20 front of you? It's page 7.

21 A. Yes.

22 Q. And it indicates U.S.
23 Department of Justice, Drug Enforcement
24 Administration, right?

25 A. Yes.

1 Q. September 27th, like I said,
2 2006. It says, "Dear Sir or Madam: This
3 letter is being sent to every commercial
4 entity in the United States registered with
5 the Drug Enforcement Administration, or DEA,
6 to distribute controlled substances," and
7 that would include Cardinal, to the best of
8 your knowledge, for this time frame. Is that
9 right?

10 A. Yes.

11 Q. It says, "The purpose of this
12 letter is to reiterate the responsibilities
13 of controlled substance distributors in view
14 of the prescription drug abuse problem our
15 nation currently faces."

16 You agree that during this time
17 frame, our nation was in the throes of a
18 drug -- of a prescription drug abuse problem,
19 correct?

20 A. Yes.

21 Q. If you'll turn to the second
22 page, so you're on page 8 of this document,
23 and you'll see down there an indented section
24 that refers to the regulation that we've
25 looked at several times. Do you see that?

1 It says, just above it, "The DEA regulations
2 require all distributors to report suspicious
3 orders of controlled substances.

4 Specifically, the regulations state in 21 CFR
5 3101.74(b)," and then it recites the
6 regulation that you've discussed earlier
7 today, correct?

8 A. Correct.

9 Q. And then it's states, "It bears
10 emphasis that the foregoing reporting
11 requirement is in addition to, and not in
12 lieu of, the general requirement under 21
13 U.S.C. 823(e), that a distributor maintain
14 effective controls against diversion."

15 Do you see that section?

16 A. I do.

17 Q. It then goes on to say, "Thus,
18 in addition to reporting all suspicious
19 orders, a distributor has a statutory
20 responsibility to exercise due diligence to
21 avoid filling suspicious orders that might be
22 diverted into other than legitimate medical,
23 scientific or industrial channels."

24 Do you see that?

25 A. Yes.

1 Q. Let me ask, generally, under 21
2 U.S.C. 823(e), do you agree that Cardinal has
3 an obligation to maintain effective controls
4 against diversion?

5 MR. PYSER: Object to form.

6 A. I'll take that this statement
7 is correct.

8 BY MR. FULLER:

9 Q. Let's go to the paragraph above
10 where we started. "The statutory factors DEA
11 must consider in deciding whether to revoke a
12 distributor's registration are set forth in
13 21 U.S.C. 823(e). Listed first among these
14 factors is the duty of the distributors to
15 maintain effective controls against diversion
16 of controlled substances into other than
17 legitimate medical, scientific and industrial
18 channels."

19 Do you see that, Mr. Morse?

20 A. I do.

21 Q. And do you agree that Cardinal
22 has an obligation -- and let me stop for a
23 second. Do you understand the difference
24 between the Code of Federal Regulation, which
25 we were looking at earlier, and the U.S.C.,

1 which is the United States Code enacted by
2 Congress?

3 MR. PYSER: Object to form.

4 A. The first one is the statute.
5 The second one is the rules that are
6 promulgated pursuant to that statute under
7 the authority of that statute.

8 BY MR. FULLER:

9 Q. So the United States Code, what
10 we're looking at now, here, being cited,
11 you're referring to it as "the statute." Am
12 I understanding you correctly?

13 A. That's U.S. Code I understand
14 to be the federal law, statute.

15 Q. And I'm not disagreeing with
16 you. You're absolutely right, actually.

17 And then the Code of Federal
18 Regulation, the regs that we looked at
19 earlier, you understand to be those regs
20 promulgated by the agency given authority to
21 do so in that particular area, correct?

22 A. Under that Code, yes.

23 MR. PYSER: Object to form.

24 BY MR. FULLER:

25 Q. And 21 U.S.C. 823 you

1 understand to be the Controlled Substance
2 Act, correct?

3 MR. PYSER: Object to form.

4 A. I don't know that I remember
5 the number. There is a controlled -- a
6 federal Controlled Substance Act.

7 BY MR. FULLER:

8 Q. And do you recollect that the
9 Controlled Substance Act applies to, amongst
10 others, wholesale distributors --

11 A. I do.

12 Q. -- such as Cardinal?

13 A. Absolutely.

14 Q. You would agree that Cardinal
15 needs to comply with the requirements of the
16 statutes set out in the Controlled Substance
17 Act, right?

18 MR. PYSER: Object to form.

19 A. I would say yes.

20 BY MR. FULLER:

21 Q. Okay. So according to the
22 letter from the DEA, at least in 2006, a
23 letter which you believe you were shown when
24 you began your job at Cardinal --

25 A. I believe so.

1 Q. -- Cardinal not only had an
2 obligation to comply with the regulations,
3 suspicious order monitoring, create and
4 implement a system and then report, and they
5 also need to comply with the Code of
6 Federal -- excuse me, the U.S. Code, the
7 actual law related to controlled substances,
8 correct?

9 MR. PYSER: Object to form.

10 A. I would say yes.

11 BY MR. FULLER:

12 Q. And do you have knowledge -- is
13 it your -- strike that.

14 Is it your understanding that
15 Cardinal effectuated controls to maintain
16 systems to prevent diversion?

17 A. Would you restate the question?

18 Q. Yes. Is it your understanding
19 that Cardinal took steps to maintain controls
20 to prevent diversion of --

21 A. Yes.

22 Q. -- controlled substances?

23 A. Absolutely.

24 THE WITNESS: Excuse me.

25 MR. PYSER: Are you okay? Do

1 you need a break?

2 BY MR. FULLER:

3 Q. Are you all right? Do you need
4 something to drink?

5 A. No, it's the time of year.
6 Allergies.

7 Q. Got it. Got it.

8 All right. Have you ever been
9 to Woodstock, New York?

10 A. No.

11 Q. Do you know where it is?

12 A. Not other than New York.

13 Q. Well, it's in upstate New York
14 and the only reason I know that is I've got a
15 cousin who, for some ungodly reason, even
16 though he lives in the city, decided to go up
17 to Woodstock to get married. Not that
18 there's anything wrong with him getting
19 married. That's not the ungodly reason. The
20 ungodly reason is why in Woodstock.

21 Thank you. So I've got
22 P1.3745, I'll pass along to Mr. Pyser.

23 (Cardinal-Morse Exhibit 11
24 marked.)

25 MS. VELDMAN: 1.3745.

1 MR. FULLER: I'm sorry. 3745.

2 Oh, and it's marked as Plaintiffs'

3 Exhibit 11. I know I skipped 10. 10

4 will come in a minute.

5 BY MR. FULLER:

6 Q. Have you seen this document

7 before, Mr. Pyser -- Mr. Pyser.

8 Have you seen this document

9 before, Mr. Morse?

10 A. Give me a moment.

11 Q. Well, you're on the e-mail,

12 right?

13 A. Give me a moment.

14 What do you consider the

15 document, this or all of this?

16 Q. Well, I'm going to gamble on

17 the whole thing.

18 A. Okay.

19 Q. Because the e-mail says it's

20 from you and it specifies the attachments.

21 And we printed out the attachments to the

22 e-mail as produced by the defendants.

23 A. Gotcha.

24 Q. Now, I'll tell you that there

25 are I think some sections that may be

1 redacted. For example, on page 5, you see
2 that? I think something was redacted from
3 that page because it says "Redacted." It's a
4 guess. I'm going out on a limb there.

5 MR. PYSER: Object to form.

6 MR. FULLER: What, that I'm
7 going out on a limb?

8 MR. PYSER: For the sarcasm.

9 MR. FULLER: Oh. Fair enough.
10 Sustained.

11 MR. PYSER: I don't mind it in
12 this room. I just don't want it in
13 there permanently.

14 MR. FULLER: There you go.

15 THE WITNESS: Let me start
16 through the e-mails real quickly.

17 BY MR. FULLER:

18 Q. Yes, sir. I'd like you to take
19 a look at the e-mail. This appears to be an
20 e-mail that you drafted. Is that right?

21 A. I'm starting at the beginning.

22 Q. Yes, sir. I'm looking at the
23 very front page. Do you see that?

24 A. This was from me to
25 Mr. Whitmore. Mr. Whitmore was an

1 investigator, so this was a request to visit
2 a facility.

3 Q. Okay. So this e-mail, at least
4 the top one on the page, was drafted by you,
5 correct?

6 A. Yes, to Mister -- to Mr. Jerry
7 Whitmore.

8 Q. Mr. Gerard Whitmore, who you
9 said was an investigator, and you CC'd
10 Mr. Moné. Is that right? He's just below
11 Mr. Whitmore.

12 A. Yes, I did.

13 Q. And you sent it on March 20th
14 of 2012, correct?

15 A. Yes.

16 Q. And it says "Progression, FP,"
17 and gives a number -- oh, I'm sorry. It says
18 "DEA Request - Woodstock" -- help me out with
19 that. App- -- app- -- blah.

20 A. I'm not sure where you're even
21 reading.

22 Q. The subject line.

23 A. The subject line?

24 Q. Read the subject line to me.

25 MR. PYSER: I think you're

1 looking for the word apothecary.

2 A. Apothecary.

3 BY MR. FULLER:

4 Q. There you go, apothecary.

5 A. It's a fancy word for pharmacy.

6 Q. And it says "Attachments," and
7 it has several attachments there, correct?

8 A. Yes.

9 Q. Now, was it normal course that
10 when you were forwarding someone information
11 related to conducting an investigation, that
12 you would provide them with some information?

13 A. Yes.

14 Q. And then you write, "Jerry,"
15 and read it aloud to us.

16 A. "Jerry, DEA has requested
17 hydrocodone purchase data from Kinray for
18 this customer. Please visit ASAP. A copy of
19 the Tableau file and the Kinray KAPQ file is
20 attached. Check the hydrocodone usage,
21 especially the 10/325 strength."

22 Q. Hydrocodone, we know the 10/325
23 was one of the more abused dosage units,
24 correct?

25 MS. RANJAN: Object to form.

1 MR. PYSER: Same objection.

2 A. Somebody say something to me?

3 BY MR. FULLER:

4 Q. No, they were talking down
5 there by themselves. Don't worry about it.

6 A. Okay. The 10/325?

7 Q. Yes, sir.

8 A. Yes.

9 Q. Okay. And let's talk about
10 Tableau. What's Tableau or "tab-blew"? What
11 is that?

12 A. If memory serves, that's the
13 document on the third page.

14 Q. Now -- and that's what I
15 thought too, but what is the document on the
16 third page? Is this something that you had
17 access to for certain pharmacies?

18 Let me back up. Let me ask you
19 a different question, Mr. Morse.

20 A. I'm still trying to answer your
21 first question unless you don't want the
22 answer.

23 Q. Well, no, that's fine. I was
24 just going to ask have you ever seen the
25 Tableau documents or do you normally use

1 them, because you look a little puzzled.

2 A. Normally I would not see them.

3 Q. Who would normally see them or
4 who utilized these documents, to the best of
5 your knowledge?

6 MR. FULLER: Don't yawn,
7 Mr. Pyser. It's too early.

8 A. What's the date on this? Is
9 there a date on this thing too?

10 BY MR. FULLER:

11 Q. Well --

12 A. Yeah, okay. I am not that
13 familiar. I have seen documents like this
14 that changed over time as we were able to get
15 additional information, on occasion. But
16 this is not something that I normally
17 reviewed.

18 Q. Who would have access to these
19 documents? Do you know who used them?

20 A. Well, the people that have
21 access to them would be the pharmacists that
22 were doing the threshold events, Michael
23 Moné, those, to get a snapshot of a pharmacy.

24 Q. Well, and a snapshot over a
25 period of time, at least according to this

1 document, right?

2 A. Yeah, yeah, it appears to be
3 over a period of time.

4 Q. Okay. So you, as an
5 investigator, didn't normally have ready
6 access unless somebody gave these to you or
7 something of that nature, correct?

8 A. Yes, I would agree with that.

9 Q. Okay. So you're forwarding a
10 copy of the Tableau and then the Kinray
11 K-A-P-Q file, which I'm assuming is the
12 remainder of the file there.

13 A. I have no idea what that stands
14 for. This is a Kinray document.

15 Q. Now, Cardinal did the
16 anti-diversion for Kinray. Is that right?

17 A. There was a time when Cardinal
18 purchased Kinray and --

19 Q. Right.

20 A. -- we -- yes, we assumed the
21 QRA portion at that time.

22 Q. Okay. And I'll represent to
23 you that this is after the purchase of
24 Kinray, okay?

25 A. The date seems like it to me.

1 Q. Just for you to bear in mind.
2 So if you go down to the bottom
3 of the page, the original e-mail is from
4 Mr. Rausch to you, Shirlene Justus and CC'd
5 to Mr. Moné, correct?

6 A. Correct.

7 Q. And Mr. Rausch says, "Steve -
8 per Michael's request, please schedule this
9 customer for a visit ASAP. Attached please
10 find the Tableau file.

11 "Shirlene - could you please
12 pull the KAPQ and print for Michael?

13 "Thanks, Nick." Right?

14 A. Yes.

15 Q. So we know at least at this
16 point that in March of 2012, Cardinal has
17 been asked for the hydrocodone sales to this
18 particular pharmacy, this Woodstock
19 Apothecary, correct?

20 A. Yes.

21 Q. And it appears that it's in
22 Woodstock, New York. Right?

23 A. Yes. Yes.

24 Q. And then here's -- pass --
25 yeah, I'll attach it anyways.

1 (Cardinal-Morse Exhibit 10
2 marked.)

3 BY MR. FULLER:

4 Q. So 3744 is going to be
5 Plaintiffs' Exhibit 10. This is a separate
6 copy of the same thing.

7 MR. FULLER: Gina, can you pull
8 it up.

9 BY MR. FULLER:

10 Q. Okay. You have a
11 black-and-white copy, but if you'll look at
12 the screen, there's a color copy on the
13 screen, Mr. Morse.

14 Do you see that?

15 A. Yes.

16 Q. Does it appear to be the same
17 document? It says at the top --

18 A. As what I have here, yes.

19 Q. -- "Progression LLC, Woodstock,
20 New York"? Right?

21 A. Yes.

22 Q. Okay. So a couple of things
23 that you tell me with your investigative
24 skills. "Controlled Substance Distribution
25 by Drug Family," do you see that section at

1 the top in the middle?

2 MR. PYSER: Object to form.

3 A. Yes.

4 BY MR. FULLER:

5 Q. What's the highest distributed
6 drug, at least according to this document?

7 A. For the most recent four
8 months, hydrocodone.

9 Q. Okay. That would be considered
10 a red flag, would it not?

11 A. Potentially.

12 Q. And particularly the amount
13 that exceeds even oxycodone. So you look at
14 oxycodone and it's between 10 and 20, and
15 then we see hydrocodone is over 40,000 dosage
16 units for the same time frame, right?

17 A. That's correct on the numbers.

18 Q. So let's continue down the
19 page. Can you read that next section for me?
20 There it is blown up on the screen. "Drug
21 family," can you read that?

22 A. Yes. "Drug Family Distribution
23 per Month by Strength."

24 Q. And it focuses on hydrocodone.
25 Is that right?

1 A. This one focuses on
2 hydrocodone, yes.

3 Q. And then if we look -- and
4 again, you can't tell in the black-and-white
5 that you're holding, but on the screen, what
6 is a majority of what's being distributed?

7 A. I'm color blind, so I think
8 that's the 10/325. Is that correct? Is that
9 green, the light green?

10 Q. Yes, sir. I will represent to
11 you that you are correct. That would be
12 another red flag. Is that correct?

13 A. Something to consider, yes.

14 Q. And do you know whether
15 Cardinal actually kept or followed national
16 averages on what percentage of the highly
17 abused dosage units you would expect to see
18 at a particular pharmacy?

19 A. I am not directly aware that
20 that occurred, but I can't say yea or nay. I
21 believe it very well could have been.

22 MR. FULLER: Okay. We don't
23 have a P1. You got it?

24 (Cardinal-Morse Exhibit 12
25 marked.)

1 BY MR. FULLER:

2 Q. This is going to be Plaintiffs'
3 Exhibit 12. Mr. Pyser is going to provide
4 you a document, it's called "Objective
5 Review," and that's part of the system that
6 we try to use when we're looking for
7 anti-diversion, correct, is an objective
8 review?

9 MR. PYSER: Object to form,
10 vague as to time frame.

11 A. I've never seen anything like
12 this.

13 BY MR. FULLER:

14 Q. Well, I'll tell you, it was
15 produced by --

16 A. I've never seen anything like
17 this.

18 Q. Fair enough.
19 And it indicates Cardinal
20 Health down in the bottom right, right?

21 A. It does.

22 Q. And so if you look at the top
23 two columns or the top two criteria --

24 MR. FULLER: Now I need the top
25 line too, Gina.

1 MS. VELDMAN: Oh, okay.

2 MR. FULLER: Thank you.

3 BY MR. FULLER:

4 Q. It says "Criteria," and then it
5 has "National average, 95th percentile." Do
6 you have an understanding of what "95th
7 percentile" means?

8 A. No.

9 Q. Okay. If something is in the
10 95th percentile, it means it's in the top 5%.

11 A. Okay.

12 Q. All right? So here --

13 MR. PYSER: Form.

14 BY MR. FULLER:

15 Q. -- under the criteria, read the
16 first one aloud to us.

17 A. "The percentage of oxycodone
18 15- and 30-milligram products."

19 Q. And I'm sorry, maybe I missed
20 some of that. It says "The percentage of
21 oxycodone that is oxy" --

22 A. "That is oxycodone 15- and
23 30-milligram products."

24 Q. And it says the "national" --

25 A. It says "is," should be "are."

1 Q. Fair enough. And it says the
2 national average is what?

3 A. It's like 22%.

4 Q. And then the 95th percentile
5 would be anything above what?

6 A. 68%.

7 Q. Okay. And how about the next
8 criteria?

9 A. "The percentage of hydrocodone
10 that is hydrocodone 10-milligram products."

11 Q. And the national average is
12 what?

13 A. 33%.

14 Q. And what is the 95th
15 percentile?

16 A. 73%.

17 Q. So if we look back at our
18 Tableau document, and if you are correct that
19 the light green is the 10-milligram, it makes
20 up more than three-quarters of the pills
21 distributed during that time frame, correct?

22 MR. PYSER: Object to form.

23 A. It makes up three-quarters of
24 the prescription drugs controlled substances
25 that are listed here, that's correct.

1 BY MR. FULLER:

2 Q. It makes up --

3 A. I don't know if this percentage
4 equates to that percentage. I'm not sure.

5 Q. Right.

6 A. I'm not sure what they're --
7 you know, 22% of what? 22% of controlled
8 substances, 22% of hydrocodone --

9 Q. No, sir, hold on.

10 A. I don't know what it is.

11 Q. Well, read it. The percentage
12 of oxycodone that is oxy 15- and 30-milligram
13 products.

14 A. Okay. Okay.

15 Q. And the same for the hydro,
16 right? The percentage of hydrocodone --

17 A. You're correct, I missed that.
18 Thank you.

19 Q. -- that is -- no, I just want
20 to clarify because it took me a couple of
21 times reading it too.

22 A. Yeah.

23 Q. And then if we look at our
24 Tableau document for this pharmacy in
25 Woodstock, in that section it is giving us

1 the amount of hydrocodone dosage units and
2 the different types, correct?

3 A. It is.

4 Q. And we can see there that the
5 light green, which is the 10-milligram 325s,
6 makes up over three-quarters of the
7 hydrocodone being distributed from August
8 of 2011 through the end of the chart in
9 February of 2012, correct?

10 A. It appears to be true.

11 Q. And let me ask. Here's the
12 question: Was there -- and the reason this
13 is being looked at, at least according to the
14 e-mail, is because the DEA asked for
15 information, right?

16 A. According to the e-mail, yes.

17 Q. If we go back -- this isn't
18 something Cardinal picked up on on their own.
19 This is all being spurred, you're sending an
20 investigator out --

21 A. Yes.

22 Q. -- because someone is asking
23 for it because the DEA is asking for
24 hydrocodone sales to this particular
25 pharmacy, right?

1 A. From that e-mail, that appears
2 to be correct.

3 Q. Okay.

4 MR. PYSER: Object to form.

5 BY MR. FULLER:

6 Q. Now, the objective information
7 that we have, at least according to this
8 Tableau document that you forwarded to your
9 investigator, does send up some red flags,
10 doesn't it?

11 A. Certainly.

12 Q. But Cardinal had this
13 information on their own, right?

14 A. I'm assuming that they do.
15 It's a Cardinal document.

16 Q. Yes, sir. And so is there a
17 system in place that you're aware of to
18 trigger something that Cardinal should look
19 into this before we had the DEA calling us,
20 asking for our hydrocodone sales to this
21 pharmacy?

22 A. I can't answer that. This
23 document here --

24 Q. Yes, sir.

25 A. -- which is 3744.

1 Q. Yes, sir.

2 A. The SOM customer purchase
3 profile, it has -- as we're looking at this
4 document, I believe I am realizing why I
5 don't recognize this document. I believe
6 this was as we progressed in improving our
7 system continuously, we came to a point where
8 we had this document. So that's why I'm not
9 all that familiar with it.

10 I -- if memory serves, this
11 came out very shortly before this, this time
12 frame. Obviously at least four months
13 beforehand or we would not have had this
14 information.

15 Q. You say four months. It goes
16 all the way back to August of 2011.

17 A. Well, I'm saying four months
18 because of what it says on this form at the
19 top on the controlled substance distribution.

20 Q. Well, but if you look a little
21 further in the hydrocodone section, the chart
22 that you see up on the screen --

23 MR. FULLER: No.

24 MS. VELDMAN: You want it back?

25 MR. FULLER: Yes. Thank you.

1 BY MR. FULLER:

2 Q. -- that goes back to August of
3 '11, right? If you look up at the screen
4 here.

5 A. Yes, that's correct.

6 Q. Okay.

7 A. That's correct, it does.

8 Q. So we at least know it went
9 back to then.

10 A. It at least went back
11 to four -- or this would be two, four, six,
12 seven.

13 Q. And again --

14 A. That they had the information.
15 I'm not sure when they started producing this
16 form.

17 Q. But my point is: Shouldn't
18 somebody be picking up on these type of
19 patterns, things that we know are potential
20 red flags? I mean, Cardinal knows this,
21 right?

22 Let's be blunt. It's a
23 multibillion dollar company that is very
24 sophisticated in the information that it had
25 and how to utilize information, correct?

1 A. It improved over the years,
2 yes. It had -- it's always been reviewing.

3 Q. Data?

4 A. Data, exactly.

5 Q. So it shouldn't take -- can we
6 at least agree that it shouldn't take the DEA
7 calling to ask for hydrocodone sales for us
8 to say, "Hey, this is something that needs to
9 be looked into"?

10 MR. PYSER: Object to form.

11 BY MR. FULLER:

12 Q. Right?

13 A. That's reviewed by someone
14 else. I would have to agree that that's
15 probably the case, but I don't know if it
16 occurred or not. It very well may have.

17 Q. It may have.

18 A. Yes.

19 Q. And if it had, we'd have an
20 earlier investigation, because at least on
21 this occasion when it got brought to their
22 attention, they decided to have you send out
23 an investigator, right?

24 A. Exactly.

25 Q. And had it happened earlier, an

1 investigator would have went out, we would
2 have that prior investigation also in this
3 Woodstock pharmacy file, correct?

4 MR. PYSER: Object to form.

5 A. Yes.

6 BY MR. FULLER:

7 Q. So --

8 A. Well, you say a previous visit
9 to the pharmacy?

10 Q. Yeah -- no, no.

11 A. I think that may be what we
12 have back here. Some of this appears to be
13 visits by Kinray. Kinray records.

14 Q. Well, let's look at that.
15 Let's look at that, now that you mention it.
16 Let's look at -- and go to page 13.

17 You there?

18 A. I'm here.

19 Q. Okay. So page 13 is a Kinray
20 Account Profile Questionnaire, K-A-P-O [sic].

21 A. Yes. That's a Q, I believe.
22 Okay.

23 Q. Yeah, that would make sense,
24 questionnaire. All right. So I'm not the
25 brightest --

1 A. So now we know what a KAPQ is.

2 Q. There it is. And it's signed
3 on what date? Looks like March 5th of 2010,
4 right?

5 A. Yes.

6 Q. Okay. So if you turn through
7 that a couple of pages, there's a lot of
8 different information. If you go to page 16.
9 Do you see that?

10 A. I'm here, yes.

11 Q. And read question 15 on that
12 page to us.

13 A. "Are one or more practitioners
14 writing a disproportionate (large) share of
15 the prescriptions for controlled substances
16 being filled by this pharmacy?"

17 Q. And it's marked "Yes," right?

18 A. Marked "Yes."

19 Q. And it asks for names?

20 A. Gives two names.

21 Q. And the first name is Wayne
22 Longmore. Do you see that?

23 A. I do.

24 Q. Well, let's continue on. Let's
25 see what other information that we have in

1 here. Let's go back to page 26.

2 A. You do realize from the letter,
3 the e-mail, that this KAPQ file is a Kinray
4 file that Shirlene Justus had to go to Kinray
5 to get.

6 Q. Okay. And Kinray at this time
7 is owned by Cardinal, right?

8 A. Yes. But in 3/31/13, we did
9 not have it in our records immediately
10 accessible. It was still a totally different
11 system from ours and we were integrating it
12 at the time. This is -- and I think 3/5/10,
13 I'm not sure exactly when we acquired Kinray.

14 Q. Mr. Rausch didn't have to go to
15 Ms. Justus for that Tableau document.

16 A. For that Tableau document, no.

17 Q. Okay.

18 A. This one, yes.

19 Q. Okay. So somebody did some
20 research on Dr. Wayne Longmore, M.D.,
21 profile. Do you see that? Page 26?

22 A. It's 26 again?

23 Q. Yes, sir.

24 A. 26. Looks like it is, yes.

25 Okay.

1 Q. And this was something that
2 could easily be ran to check out what's going
3 on with the heavy prescribers to some of
4 these pharmacies, correct?

5 A. This was apparently done.

6 Q. And this is part of what the
7 due diligence you taught your investigators
8 to do as well, right?

9 A. At different times, this was
10 requested, yes.

11 Q. As we stated earlier, the more
12 information to have, the better, correct?

13 A. If it's useful.

14 Q. Sure.

15 So Wayne D. Longmore. If you
16 turn to the next page, you'll see his medical
17 school. What medical school did he go to?

18 A. I'll get there in a second.
19 You didn't want to say the word, did you?
20 Dalhousie.

21 Q. Do you know where Dalhousie
22 University --

23 A. University Facility of
24 Medicine. I do not have any idea.

25 Q. That sounds a little weird,

1 right?

2 MR. PYSER: Object to form.

3 BY MR. FULLER:

4 Q. It may be right there next to
5 Princeton, I don't know.

6 MR. PYSER: Object to form.

7 BY MR. FULLER:

8 Q. Turn to the next page. We have
9 the comments section. Read the second
10 comment.

11 A. The second comment?

12 Q. Yes, sir.

13 A. "He is a great drug pusher."

14 Q. Great drug pusher.

15 A. "Reviewer, Jack Anonymous."

16 Q. And it's July 8 of 2010 is the
17 date on the entry, right?

18 A. Yes.

19 Q. And it says, "If you need
20 narcotics, this is the best doctor to see.
21 He will most definitely issue at least
22 50 Norco 10/35 [sic] per 7 days." Right?

23 MR. PYSER: Object to form.

24 A. That's what it says.

25 --oOo--

1 BY MR. FULLER:

2 Q. So read the next entry,
3 June 15th, 2010.

4 A. "Overprescribes hydrocodone, an
5 addictive painkiller."

6 Q. And then the writer says, "My
7 husband has addiction issues and this doc is
8 easy to get drugs from." Correct?

9 A. That's what it says.

10 MR. PYSER: Object to form.

11 BY MR. FULLER:

12 Q. And the issue we're having at
13 this point in time, or the concern we're
14 having, is DEA wants to know about
15 hydrocodone sales, and we see that over
16 three-quarters of what's being shipped in
17 hydrocodone is the same 10/325s mentioned in
18 the doctor information.

19 A. In the first one, right.

20 MR. PYSER: Objection, rule of
21 completeness. Also leading.

22 A. There's also additional
23 comments here by other patients.

24 BY MR. FULLER:

25 Q. Oh, there absolutely is.

1 A. And quite frankly, some are
2 glowing.

3 Q. Some are glowing.

4 A. This was also a time in 2010
5 that I'm not sure exactly when -- I don't
6 remember accurately when we acquired Kinray.
7 This was before Cardinal -- I do -- I believe
8 that this is before Cardinal had any
9 ownership in Kinray. This is not a
10 Cardinal-type document at the beginning, and
11 this appears to be from 2010.

12 So I'm being asked to comment
13 on this document from a company that I
14 question whether we owned at the time.

15 Q. Okay. I'm sorry, Mr. Morse.
16 What question were you answering?

17 MR. PYSER: I think the --
18 BY MR. FULLER:

19 Q. What was the question I asked
20 you that spurred that colloquy?

21 A. Whether these two -- well, you
22 asked what these two comments said, and --

23 Q. And we read those, right?

24 A. And I answered that, read those
25 to you, and indicated that there were others

1 here.

2 Q. Well, hold on. No, that's not
3 actually true. The last question I asked is:
4 "And the issue we're having at this point in
5 time, or the concern we're having, is the DEA
6 wants to know about hydrocodone sales" --

7 A. Yes.

8 Q. -- "and we see that over
9 three-quarters of what's being shipped in
10 hydrocodone is the same 10/325s mentioned in
11 the doctor information?" That was my
12 question, right?

13 A. That was your question, and I
14 answered --

15 Q. And then you went on this
16 colloquy about additional information and
17 glowing reviews. I didn't ask about that,
18 did I?

19 MR. PYSER: Object to form.

20 BY MR. FULLER:

21 Q. Did I ask about that?

22 MR. PYSER: Object to form.

23 A. No.

24 BY MR. FULLER:

25 Q. Okay. So the way this works is

1 I get to ask certain questions and I want you
2 to answer my questions. Mr. Pyser, sitting
3 next to you, after I'm done, is going to get
4 a chance to come sit in this seat and he can
5 ask you all those follow-up questions he
6 wants. Okay?

7 So I'd ask that you just listen
8 to my question and answer my question. I
9 understand you want to try to go other
10 places --

11 A. I want to try what?

12 MR. PYSER: Object --

13 BY MR. FULLER:

14 Q. Go other places with your
15 answer.

16 MR. PYSER: Object to form.

17 Move to strike.

18 BY MR. FULLER:

19 Q. Because as you pointed out, my
20 question had nothing to do with glowing
21 reviews or anything else.

22 A. Correct.

23 Q. Okay.

24 MR. PYSER: Object to form,
25 move to strike.

1 BY MR. FULLER:

2 Q. So you mentioned Tableau -- or
3 you mentioned that Kinray owned this,
4 potentially, during the time of this initial
5 process, right?

6 A. Yes, I did.

7 Q. And then Cardinal purchased
8 Kinray, right?

9 A. Yes.

10 Q. And Cardinal had an obligation
11 to do its due diligence on all these
12 customers, because now Cardinal is operating
13 them, right?

14 A. Yes.

15 Q. And Cardinal had access to this
16 information in the file, and Cardinal
17 actually is the one that maintained the
18 Tableau document, correct?

19 A. Correct.

20 Q. And do you know of anything in
21 the file for this pharmacy prior to the DEA
22 calling Cardinal and asking for the
23 hydrocodone? Do you know of any other
24 investigations?

25 MR. PYSER: Object to form.

1 A. I know of no other
2 investigations by Cardinal.

3 BY MR. FULLER:

4 Q. And what we've seen and what
5 you forward --

6 MR. PYSER: Sir, were you
7 finished with your answer? I think
8 counsel may have cut you off. If you
9 have more to say, you can finish your
10 answer. If not, we can move on to the
11 next question.

12 BY MR. FULLER:

13 Q. Well, let me ask you, if there
14 had been other investigations related to this
15 pharmacy, wouldn't you want to have those to
16 forward to your investigator?

17 MR. PYSER: Object to form.

18 A. Yes.

19 BY MR. FULLER:

20 Q. Absolutely. You want to give
21 them as much information as is available,
22 correct?

23 A. Have access to them, yes.

24 Q. You'd want to give them to
25 them.

1 A. I don't send them to them
2 myself. They have access to it in our
3 system.

4 Q. But, sir, as you've already
5 testified, this was in Kinray's system --

6 A. In Kinray's system.

7 Q. -- not necessarily yours.

8 A. Right. That's why this was
9 sent.

10 Q. And there's no other
11 investigation there, right?

12 A. It appears to be just one here.

13 Q. From 2010, correct?

14 A. No, that was -- let's see, let
15 me go back and look through it again.

16 Q. Take your time.

17 A. Terms. 2010, you're
18 characterizing this as an investigation in
19 2010?

20 Q. We can call it whatever you
21 want to call it, Mr. Morse.

22 A. It appears to me from the title
23 on the document that this is Kinray Account
24 Profile Questionnaire. This is the
25 questionnaire that the customer completed for

1 Kinray.

2 Q. So there was no investigation
3 in there that was provided?

4 A. This document appears to be a
5 questionnaire.

6 Q. Fair enough.

7 A. That's what it says. Let me
8 look through the rest of this and see if
9 there's anything else that shows. There is a
10 second Kinray questionnaire dated 4/26/11.

11 (Document review by witness.)

12 A. It appears also to be a
13 questionnaire in the title. Kinray Account
14 Profile Questionnaire, KAPQ.

15 BY MR. FULLER:

16 Q. You let me know when you're
17 done, Mr. Morse.

18 A. Not being familiar with
19 Kinray's process, these documents, based on
20 what they say, are questionnaires. And from
21 what I can tell, there's no indication
22 that -- that their person -- their, meaning
23 Kinray's person -- ah.

24 This information was collected
25 by Whitmore. Whitmore was their

1 investigator, so your characterization of
2 these as a investigation now has a question
3 in my mind because the top, what it says,
4 "questionnaire" versus one where he signed.
5 The --

6 Q. Hold on. Hold on. Let's stop.

7 A. Okay. I'm not sure whether
8 that was a visit or whether it was a
9 questionnaire.

10 Q. You're not answering any
11 question I asked. You answered my last
12 question and we were moving on and then you
13 continued to talk.

14 A. Okay. I'm --

15 MR. PYSER: Object to form.

16 BY MR. FULLER:

17 Q. So I'm going to move to strike
18 the nonresponsive narrative and you let me
19 know when you're done, because we'll back out
20 the time and I'll continue using my seven
21 hours.

22 A. I'm done.

23 Q. Okay. Now, let me ask. The
24 system you had, this Tableau documents, these
25 investigators, this whole supply chain

1 integrity system that you guys operated from
2 corporate, that application was nationwide,
3 correct? It applied to all of your customers
4 no matter where they were in the country.

5 A. My understanding is yes.

6 Q. Some of the policies and
7 procedures that we looked at appear to apply
8 to the entire corporation. Is that your
9 understanding?

10 A. Yes.

11 Q. So when we talk about the
12 supply chain integrity or the anti-diversion
13 department, it's a systemic department,
14 meaning it's a system applicable everywhere
15 that Cardinal did business?

16 A. Centralized --

17 Q. In Dublin, Ohio?

18 A. -- in Dublin, Ohio.

19 Q. Okay. And I think you
20 mentioned even earlier that at some point the
21 DEA came to Dublin; although they may have
22 questions about different distribution
23 centers or different customers, no matter
24 where they are, everything was centralized
25 there in Dublin so, for the most part,

1 I guess, their questions could be answered
2 there. That was sort of the central hub.

3 A. That's why they came there,
4 yes.

5 Q. Okay. So whether it's for good
6 or for bad, the system was the same no matter
7 if we're looking at the operations in
8 Florida, Ohio, West Virginia or Washington
9 state. Across the whole country, the system
10 was implemented the same way, right?

11 A. Yes.

12 Q. Okay. For example, we just
13 looked at one part of the system operating in
14 Woodstock, New York, correct?

15 A. Yes.

16 Q. Now, next we're going to go to
17 PharmHouse Pharmacy, which is in Pasadena,
18 Texas. Do you know where Pasadena, Texas is,
19 Mr. Morse?

20 A. Roughly.

21 Q. Do you mean it's a rough town?
22 No, I'm kidding. When you say "roughly,"
23 where is it located from here?

24 A. Somewhere around Houston, I
25 believe.

1 Q. So a bit east from here, right?

2 A. Yes.

3 (Cardinal-Morse Exhibit 14
4 marked.)

5 MR. FULLER: This is 3769, I
6 believe it's Exhibit 12. No. 14.

7 BY MR. FULLER:

8 Q. Have you seen this document
9 before, Mr. Morse?

10 A. Obviously. I wrote it.

11 Q. You conducted this
12 investigation, didn't you?

13 A. Yes.

14 Q. Do you remember PharmHouse
15 Pharmacy, Pasadena, Texas?

16 A. At this time, I do not recall
17 going to this pharmacy other than this
18 document.

19 Q. And that would have been your
20 first year there, because this is
21 December 2nd of 2008, right?

22 A. That's correct.

23 Q. This would be during the time
24 frame or just after the time frame of the
25 suspension of the licenses for the

1 distribution centers, correct?

2 A. Yes.

3 Q. And here it says, "This
4 pharmacy was visited on November 11, 2008, by
5 Steve Morse, CAH." When you say "Steve
6 Morris/CAH," what does that mean? Cardinal
7 Health?

8 A. It just identifies me as
9 Cardinal Health.

10 Q. Got it.

11 "Met with Craig Longhurst,
12 non-pharmacist owner, and Stephanie
13 Santaromana, the pharmacist on duty at
14 PharmHouse Pharmacy."

15 And again, you don't recollect
16 this visit or this investigation?

17 A. Not other than from seeing
18 this.

19 Q. Okay. If we go down, you see
20 the section "Dispensing practices"?

21 A. Yes.

22 Q. "The pharmacy dispensed an
23 average of 150 prescriptions per day
24 primarily from the following sources:
25 Physicians throughout Houston prescribing for

1 patients residing in long-term care and
2 assisted living facility" and two pain
3 clinics. I guess they're also referred to as
4 PSW, which is Pain, Stress and Weight Clinic?
5 Is that right?

6 A. Yes.

7 Q. "The physician for PSW clinic
8 had his medical license suspended in 1996 for
9 selling methadone to an undercover agent.
10 The license was reinstated in April --
11 April 2nd, 2007. One of the PAs working for
12 the PSW clinic had his license to practice
13 disciplined for falsifying an application."

14 Those would be two red flags,
15 wouldn't they?

16 A. Certainly to be considered.

17 Q. If you go on down, "Pharmacist
18 on duty," and halfway through the first
19 bullet it says, "The pharmacist on duty
20 provided no indication that the legitimate
21 issuance of prescriptions was considered.
22 The first 20 patients had their prescriptions
23 filled," and then basically they cut off
24 everybody else the rest of the day, right?

25 A. That is correct.

1 Q. Is that another red flag?

2 A. Very well could be.

3 Q. It says, the next bullet point,
4 "Stated that the -- that prior to the
5 limitation to 20 patients, it was difficult
6 for her," being the pharmacist, "to take a
7 lunch as patients from the pain clinics would
8 fill the waiting room and line up in the
9 public areas on the clinic -- of the clinic
10 for access to the pharmacy."

11 That's a huge red flag to see
12 people lined up out of the pharmacy, isn't
13 it?

14 A. Yes.

15 Q. You've seen that before at
16 facilities that Cardinal was distributing to,
17 correct?

18 MR. PYSER: Object to form.

19 A. I personally have not seen it.

20 BY MR. FULLER:

21 Q. You have not. Have you seen
22 reports from your investigators who have seen
23 it?

24 A. Yes.

25 Q. It goes on to say, "Stated that

1 the pharmacy receives virtually no
2 prescriptions from practitioners in the
3 surrounding area other than from the pain
4 clinics," which is in contradiction to the
5 above dispensing practices information,
6 correct?

7 A. I'm not sure what two things
8 you are comparing here.

9 Q. So up above, under "Dispensing
10 practices," it says it gets the prescriptions
11 from two sources, physicians throughout
12 Houston and the pain clinics.

13 And down below, when you're
14 talking to the pharmacist on duty, she states
15 that the pharmacy sees virtually no
16 prescriptions from practitioners in the
17 surrounding area other than the pain clinics.

18 A. I think she is zeroing in on
19 the immediate area, and in the immediate area
20 is strictly from the pain clinics.

21 Q. And then you interview the
22 non-pharmacist owner. It says -- and this is
23 going down a little bit on the next page --
24 "The representation was made that
25 approximately 30% of the pharmacy's

1 prescriptions were for controlled
2 substances."

3 That's also high on the
4 comparison chart, correct?

5 A. It's of -- you would need to
6 look into that, yes.

7 Q. Another red flag.

8 A. Uh-huh.

9 Q. It says, "Only a few patients
10 were observed in the pharmacy, but virtually
11 all of them were young males less than 30
12 years of age."

13 That's another red flag, isn't
14 it?

15 A. Yes.

16 Q. That's why you're putting it in
17 your report.

18 A. Yes.

19 Q. "The pharmacy did not have an
20 over" -- or OTC, which is over-the-counter,
21 correct?

22 A. That's correct.

23 Q. -- "front end of any
24 consequence." Again, another red flag when
25 we're trying to look at potential for

1 diversion, right?

2 A. Yes.

3 Q. "Related Findings," if you go
4 down to the second bullet point, you actually
5 knew a former BOP state investigator, didn't
6 you?

7 A. May I have time to read through
8 these?

9 Q. Sure. Well, listen, I can read
10 it and maybe you can still digest it while I
11 read it.

12 "A former investigator for the
13 State of Texas Board of Pharmacy having
14 responsibility for Houston area was
15 contacted. My concerns regarding the
16 prescription practices of the PSW clinic and
17 the dispensing practices of PharmHouse
18 Pharmacy were presented. Since the contact
19 is now employed as an investigator by the
20 Texas AG's office," which is Attorney
21 General, correct?

22 A. Correct.

23 Q. "He was unable to provide any
24 pertinent information other than to say I
25 should probably trust my instincts." Right?

1 A. Yes.

2 Q. "Recommendation: The visit to
3 the pharmacy resulting in the findings above
4 support the determination at this time that
5 the pharmacy represents a significant risk
6 for diversion."

7 You found, based on those red
8 flags, that you thought this pharmacy was a
9 significant risk to Cardinal for diversion.
10 Right?

11 A. I did. I did.

12 Q. And do you know how long
13 Cardinal continued to service that pharmacy?

14 A. I do not.

15 Q. I'm going to hand you -- I'm
16 sorry -- 3729, which is going to be
17 Plaintiffs' Exhibit 13.

18 (Cardinal-Morse Exhibit 13
19 marked.)

20 BY MR. FULLER:

21 Q. And if you'll turn to the
22 second page of this document...

23 A. The second page?

24 Q. Yes, sir.

25 A. Number 2? I'm sorry, I'm

1 sorry, these are covered up up here. The
2 second page down?

3 Q. Yes, sir, right there. At the
4 top it says "Cardinal Health Supply Chain
5 Integrity, Anti-Diversion Program."

6 A. Yes.

7 Q. That's the department you
8 worked with, right?

9 A. Yes.

10 Q. It says, "Customers restricted
11 from purchasing controlled substances since
12 October 1st, 2008," and you look down
13 there -- I think it's the one, two, three,
14 four -- fifth one down, PharmHouse Pharmacy,
15 Pasadena?

16 A. Yes.

17 Q. Suspended on 5/29/09?

18 A. Yes.

19 Q. About five, six months after
20 you visited the place, right?

21 A. Yes.

22 Q. So even with all the findings
23 you made, Cardinal apparently continued to
24 sell narcotics to that pharmacy that,
25 according to you, posed a high risk of

1 diversion.

2 MR. PYSER: Object to form.

3 BY MR. FULLER:

4 Q. Correct?

5 A. It appears so.

6 Q. Okay. Okay. We talked earlier
7 about Mallinckrodt letters, and I think you
8 mentioned you didn't know whether you got
9 that particular one we looked at earlier but
10 you remember seeing Mallinckrodt letters. Is
11 that right?

12 (Cardinal-Morse Exhibit 15
13 marked.)

14 BY MR. FULLER:

15 Q. P.3736. Do you see that there?

16 A. Yes.

17 Q. It starts with an e-mail from
18 Carolyn McPherson to Michael Moné, Mr. Rausch
19 and yourself, correct?

20 A. It starts prior to that but it
21 goes to Ms. McPherson, and she -- yes, she
22 goes from there.

23 Q. Sorry, I apologize. It starts
24 from Dale Hill. Then Ms. McPherson forwards
25 it to persons including yourself, right?

1 A. Yes.

2 Q. And then Mr. Rausch forwards it
3 again, or responds, and says, "Please see the
4 attached letter from Mallinckrodt referencing
5 Florida customers. Could you please review
6 the attached customers and determine what
7 level of due diligence we have for them, if
8 any of the due diligence speaks to their
9 oxycodone utilization, and if we a site visit
10 report on file?" I think it should be "and
11 if we have." But listen, I will be the last
12 one to criticize someone's typos.

13 He then says, "I'll pull the
14 historic data for these accounts and we can
15 collectively review both the data and the
16 documentation."

17 And then you respond, right?

18 A. Looks like I did.

19 Q. What did you say?

20 A. "I am inclined to visit GoodRx,
21 The Medicine Shoppe 1939" --

22 Q. I'm sorry, read that again.

23 A. "I am inclined to visit GoodRx,
24 Medicine Shoppe 1939" -- it must have been a
25 corporation name versus a street pharmacy

1 name -- "as their purchases of 15- and
2 30-milligram oxy over the last six months
3 accounts for 91% of their oxy purchases from
4 us. Has your analysis found anything else we
5 need to be aware of?"

6 Q. Now, why is that concerning to
7 you? That's -- we looked at that chart
8 earlier. I want to see if I can get it back
9 out.

10 MR. PYSER: Object to form.

11 MR. FULLER: It's the one that
12 doesn't have the P1. Yeah, this one.

13 BY MR. FULLER:

14 Q. All right. This is that
15 objective review document again, Mr. Morse.
16 I'm going to ask for your help, what the --
17 yep, right below it. What exhibit number is
18 that at the bottom on that sticker?

19 A. The sticker?

20 Q. Yes, sir.

21 A. Exhibit 12.

22 Q. Exhibit 12. What does it say
23 about percentage of oxycodone?

24 MR. PYSER: Same objection as
25 before on time frame.

1 BY MR. FULLER:

2 Q. Sure. Go ahead.

3 A. On -- you say on -- your
4 question again, please?

5 Q. Oxycodone, it says "The
6 percentage of oxycodone that is 15- and
7 30 milligrams products" is the criteria. The
8 national average is 22, correct?

9 A. That's what the chart says.

10 Q. 95th percentage is 68%. Where
11 does this pharmacy fall?

12 A. 91%.

13 Q. 91. That's awful high, isn't
14 it?

15 MR. PYSER: Object to form.

16 A. Compared to that chart, yes.

17 BY MR. FULLER:

18 Q. Well, it's -- you would agree
19 91% is high anyway?

20 A. That's high.

21 Q. Okay. Now, again, Cardinal
22 didn't pick up on this on their own, did
23 they? At least there's no indication here
24 that they did, is there?

25 MR. PYSER: Object --

1 A. Not within this document.

2 THE WITNESS: Sorry.

3 MR. PYSER: Object to form.

4 BY MR. FULLER:

5 Q. And if we look at the letter
6 that the nice people at Mallinckrodt sent
7 over, it's directly to Cardinal Health,
8 overnight delivery, November 12th, 2010,
9 right?

10 A. Yes.

11 Q. And it's very similar to the
12 letter or the document from Mallinckrodt that
13 we looked at earlier, isn't it? It says, "As
14 you are aware, U.S. Drug Enforcement
15 Administration (DEA) registrants are required
16 by law to have a robust suspicious order
17 monitoring program. As a DEA registrant,
18 Mallinckrodt Inc. or Covidien --

19 A. Corvidien -- Covidien.

20 Q. However you want to pronounce
21 it, "Company, otherwise known as
22 Mallinckrodt, has developed and maintains a
23 comprehensive program that includes review of
24 customer orders, IMS data and chargeback
25 information and, where appropriate,

1 subsequent audits of distributors' suspicious
2 order monitoring programs."

3 So they've used these systems
4 that they have in place to flag this account,
5 right?

6 MR. PYSER: Objection.

7 A. It's what it appears.

8 MR. PYSER: Object to form.

9 BY MR. FULLER:

10 Q. And not only are they looking
11 into it themselves, but they're going as far
12 as recognizing that you, Cardinal, through
13 the chargeback data, is the one providing
14 controlled substances to this facility, this
15 pharmacy, and asking you to take a look as
16 well, right?

17 A. I'll agree to the they're
18 asking us to take a look as well. I'm not
19 sure how they got the information.

20 Q. And they say -- do you know
21 what the -- it says IMS data. Do you know
22 what IMS data is? And if you don't, that's
23 fine.

24 A. I do not.

25 Q. Okay. I'll represent to you

1 it's a -- well, I'll just tell you. It's a
2 third-party vendor that collects data in the
3 pharmaceutical industry and then sells it to
4 whoever is willing to pay for it. Sales
5 data, distribution data, a whole litany of
6 different information.

7 MR. PYSER: Object to form.

8 BY MR. FULLER:

9 Q. And the chargeback system, do
10 you know what the chargeback system is?

11 A. Only vaguely. I never fully
12 understood what a --

13 Q. Sort of like a rebate system.

14 A. -- chargeback system was and
15 how it worked.

16 Q. Okay. Then they go on to say,
17 "Our suspicious order monitoring program has
18 identified certain pharmacies found in
19 Florida listed on the Attachment 1." If you
20 turn over to the Attachment 1, we see
21 GoodRx V LLC, which is the same one that you
22 guys recognized that you need to look into,
23 correct?

24 A. Yes, it does appear to be so.

25 Q. And do you know whether an

1 investigation was done at this point into
2 GoodRx?

3 A. Not with this information in
4 front of me. Other than this.

5 Q. Right, sure.

6 And you would suspect that
7 Cardinal would be able to pick up on this
8 high percentage of oxy 15 and 30s being
9 purchased and recognize that themselves to do
10 their own due diligence before Mallinckrodt
11 brought it to their attention, even, right?

12 MR. PYSER: Object to form.

13 A. This system is outside of my
14 realm. I don't know what the system was
15 capable of at this time. I would like to
16 have seen that -- yeah, should have caught
17 it. But I don't know what the system as
18 developed in time was at this time.

19 BY MR. FULLER:

20 Q. Sure. Sure.

21 And you're aware that in 2007
22 and 2008, when you joined, Cardinal was in
23 the process of automating their system?

24 A. Yes.

25 Q. That prior to, they did not

1 have an automated system.

2 MR. PYSER: Object to form.

3 A. I wouldn't -- I would not be
4 able to answer that. I don't know.

5 BY MR. FULLER:

6 Q. Well, you do know that they
7 were in the process of automating their
8 system, right?

9 A. When I was there, yes.

10 Q. Yes, okay.

11 If there are customers who are
12 known to be high risk for diversion, would
13 you agree that it's risky for Cardinal to
14 continue to service those accounts?

15 MR. PYSER: Object to form.

16 A. I would agree. That decision
17 was not mine.

18 BY MR. FULLER:

19 Q. Would you also agree that
20 Cardinal, while it does have statutory and
21 regulatory obligations, should operate in a
22 way that it doesn't needlessly endanger the
23 communities that it services?

24 MR. PYSER: Object to form.

25 A. I don't believe Cardinal

1 operated any system that needlessly did that,
2 so I would say yes.

3 BY MR. FULLER:

4 Q. Let me ask the question again.
5 I'm not saying Cardinal did. I'm asking you
6 a question and listen to my question very
7 carefully.

8 Would you agree that Cardinal
9 should operate -- I'm not saying -- I'm not
10 judging whether they did or didn't -- but
11 that they should operate in a way that
12 doesn't needlessly endanger the communities
13 they service?

14 MR. PYSER: Object to form.

15 A. From my point of view, looking
16 at the regulation, 1301.74(b), we have two
17 obligations; to have a program, operate it,
18 and to report suspicious orders.

19 Cardinal goes beyond that and
20 they do things that would educate --

21 BY MR. FULLER:

22 Q. No, let's stop there.

23 MR. PYSER: Let him finish his
24 answer.

25 MR. FULLER: No, I'm not. He's

1 not answering my question. No, not
2 when he's not answering.

3 MR. PYSER: You can ask
4 another. He gets to finish his
5 answer.

6 MR. FULLER: No, we don't.

7 MR. PYSER: You know he gets to
8 answer his question, Mr. Fuller.

9 MR. FULLER: He is not
10 answering the question. I am not
11 wasting my time.

12 MR. PYSER: Then you can move
13 to strike it. You can move to strike
14 the answer.

15 MR. FULLER: Okay, move to
16 strike.

17 MR. PYSER: Finish the answer.

18 BY MR. FULLER:

19 Q. The next question --

20 MR. PYSER: Sir, you may finish
21 your answer. Counsel cannot cut you
22 off. Go ahead and answer.

23 BY MR. FULLER:

24 Q. The next question is, again --
25 listen to the question.

1 MR. PYSER: Before the next
2 question, please finish your answer.
3 You may finish your answer.

4 MR. FULLER: I specifically --

5 MR. PYSER: Counsel does not
6 have the right to stop you from
7 speaking when he asks you a question.

8 BY MR. FULLER:

9 Q. I specifically started off this
10 question asking you, regulations aside,
11 right? Regulations, statutory obligations
12 aside, didn't I?

13 MR. PYSER: Object to form. If
14 you would like to finish your answer,
15 you may go ahead and finish your
16 answer and then you can answer
17 whatever question Mr. Fuller decides
18 to place to you next.

19 BY MR. FULLER:

20 Q. Didn't I start off my whole
21 preface that way?

22 MR. PYSER: Same objections.
23 You may finish your answer if you'd
24 like.

25 A. I would like to have the

1 question repeated now.

2 BY MR. FULLER:

3 Q. Nope.

4 MR. FULLER: I'll strike the
5 question.

6 MR. PYSER: You can't do that.

7 MR. FULLER: I can absolutely
8 strike my question.

9 MR. PYSER: You may finish your
10 answer, Mr. Morse.

11 BY MR. FULLER:

12 Q. Mr. Morse --

13 A. Cardinal Health --

14 Q. Mr. Morse --

15 A. -- does have --

16 THE WITNESS: We're talking
17 over -- he's talking over me.

18 BY MR. FULLER:

19 Q. -- aside from the statutory and
20 regulatory obligations, should Cardinal act
21 in a way that does not needlessly endanger
22 the communities it services? Yes or no?

23 MR. PYSER: Object to form, but
24 go ahead and answer.

25 A. Cardinal Health does that, yes,

1 and I agree, they should. And they do.

2 BY MR. FULLER:

3 Q. Irrespective of whatever the
4 regulations are, right?

5 MR. PYSER: Object to form.

6 BY MR. FULLER:

7 Q. Sure, they have to comply with
8 the reg- --

9 A. I'm not sure what you mean by
10 that question.

11 Q. No matter what the
12 regulations -- well, I shouldn't say no
13 matter what the regulations say.

14 Even in spite of the
15 regulations, they need to make sure that they
16 conduct themselves in a way that doesn't
17 needlessly endanger our communities, correct?

18 MR. PYSER: Object to form and
19 asked and answered. The --

20 BY MR. FULLER:

21 Q. Right?

22 A. The requirement --

23 Q. I'm not asking about the
24 requirement.

25 A. Beyond the -- they go beyond

1 the requirement and when they go beyond the
2 requirement, they do some of those things
3 that I think you're looking for. The
4 requirement is to protect the public by
5 following that regulation. They do that.
6 They did the best they could to do that.

7 Q. And when they chose -- strike
8 that.

9 When you and your investigators
10 go in and do an investigation and you
11 determine somebody is at high risk for
12 diversion, that means that there is a real
13 possibility the diversion may be going on
14 through that pharmacy, correct?

15 MR. PYSER: Object to form.

16 A. That decision is made by those
17 who review the documents.

18 BY MR. FULLER:

19 Q. No, sir. You make the
20 recommendation as to a high risk of
21 diversion, correct?

22 MR. PYSER: Object to form.

23 BY MR. FULLER:

24 Q. We just saw it.

25 A. I make the recommendation.

1 Q. That -- no, no. You don't make
2 the recommendation. You're -- let's pull it
3 out. No, that's the Mallinckrodt letter.
4 3769. This is the PharmHouse in Pasadena.
5 Page 3, "Recommendation."

6 You're saying here that you are
7 making the determination that the pharmacy
8 represents a significant risk for diversion.
9 Right?

10 A. That's my recommendation.

11 Q. That's your opinion.

12 A. It goes to review. That's my
13 recommendation --

14 Q. That's your opinion?

15 A. -- that goes to review.

16 That's my recommendation. It's
17 titled a recommendation. It's intended to be
18 a recommendation to those who make the
19 decision as to what to do with this pharmacy.
20 We gathered the information for them.

21 Q. And you have -- you found this
22 pharmacy to be a high risk for diversion,
23 correct?

24 MR. PYSER: Object to form.

25 --oOo--

1 BY MR. FULLER:

2 Q. Based on your investigation
3 actually out there at the pharmacy, right?

4 MR. PYSER: Object to form.

5 A. That they -- that they -- that
6 the pharmacy represents a significant risk of
7 diversion, exactly what it says.

8 BY MR. FULLER:

9 Q. Okay.

10 A. It's a recommendation for
11 consideration for someone to make the
12 determination about what we're going to do
13 with it.

14 BY MR. FULLER:

15 Q. And if we're delivering pills
16 to pharmacies that are at high risk for
17 diversion, that's not the safest decision for
18 our communities, is it?

19 MR. PYSER: Object to form.

20 A. Under my opinion of what it
21 said, that would have been reviewed. And to
22 answer your question, if they made the
23 decision, people who are responsible for
24 making our decision, that that customer was a
25 risk, it was their decision and that would be

1 the point to go forward.

2 My decision did not cause that
3 to -- cause any drugs to go out there or to
4 be stopped from going to that particular
5 pharmacy.

6 MR. PYSER: Let's take a break.
7 We've been going about an hour and 20
8 minutes.

9 MR. FULLER: Sure.

10 THE VIDEOGRAPHER: Off the
11 record at 3:34. This concludes
12 Tape 4.

13 (Recess taken, 3:34 p.m. to
14 3:46 p.m.)

15 THE VIDEOGRAPHER: All right,
16 stand by. Okay. We're back on the
17 record at 3:46. This begins Tape 5.

18 BY MR. FULLER:

19 Q. All right. Before we took a
20 break, you're saying that your designation on
21 the investigation is a recommendation. Is it
22 also your opinion?

23 A. It's a recommendation based
24 upon what I observed there.

25 Q. Well, it's not just based on

1 what you observed, is it? It's based on all
2 the information.

3 A. All the information that we had
4 documented there.

5 Q. I mean -- and let's not just
6 focus on that -- PharmHouse. I mean, the
7 investigation should encompass a lot of --
8 anything available, correct?

9 A. Anything available that's
10 pertinent.

11 Q. Sales history?

12 A. If they -- yes, if they can get
13 it. Sales history they can get.

14 Q. The dosage usage --

15 A. Yes.

16 Q. -- based on the pharmacy; if
17 appropriate, primary prescribers, correct?
18 Observations about customers?

19 A. Information that we get is
20 appropriate to the time. There's some
21 information that changed over time as to what
22 we got, yes. You do -- all the information
23 you get, the better recommendation you can
24 make.

25 Q. Right. And the recommendation

1 is based on all your years of experience and
2 training, you yourself being a pharmacist
3 yourself, correct? Right?

4 A. Licensed as such. Not
5 practicing for 35 years, yes.

6 Q. Sure. Sure.

7 But all still -- I mean, you
8 still understand what they are supposed to
9 and not supposed to be doing and how they're
10 supposed to conduct themselves in compliance
11 with the regulations, right?

12 A. Yes.

13 Q. And then you provide this
14 recommendation, I'm assuming it's your
15 opinion that you're giving them based on the
16 designation that whether they're at low risk,
17 moderate risk or high risk, correct?

18 A. Yes.

19 Q. And then you mentioned it goes
20 on to someone else. Who has the final
21 determination as to whether a pharmacy is at
22 high risk, moderate risk or low risk?

23 A. Michael Moné.

24 Q. So even Mr. Hartman above him
25 can't weigh in on that? Is that your

1 understanding?

2 A. I'm not aware of that being the
3 system.

4 Q. Okay. So your understanding,
5 it goes up to Mr. Moné, and Mr. Moné has the
6 final determination. Right?

7 A. That's the way I understood the
8 process to work, yes.

9 Q. Okay.

10 A. That's the way I understand the
11 process worked.

12 Q. And then if the final
13 determination is made that a pharmacy is at
14 high risk, whether it's consistent with yours
15 or different than yours, you would agree that
16 we should not be shipping controlled
17 substances to a pharmacy that is at high risk
18 for diversion, correct?

19 A. Yes.

20 MR. PYSER: Object to form.

21 BY MR. FULLER:

22 Q. And when Mr. Moné is making
23 this decision, has he ever consulted
24 additionally with you? Has he ever come to
25 you and said, "Hey, tell me more about this"?

1 A. On occasion.

2 Q. Okay. So he's not just looking
3 at the report; he also has access to you or
4 your investigators, whoever may have went out
5 there, to maybe get more of a sense of what
6 was going on.

7 A. Yes.

8 Q. Has he ever asked you to do a
9 revisit or go back out?

10 A. I can't think of a specific
11 time, but I have gone back after a short --
12 or had an investigator go back after a short
13 period of time, so I guess the term "revisit"
14 there is what I would take issue with,
15 whether it's --

16 Q. Or follow-up in a short period?

17 A. Yeah, the follow-up in a short
18 period of time. Additional information or
19 based upon the original visit, I don't
20 remember. I don't know.

21 Q. Now, and we have looked at
22 today a bunch of different pharmacies in a
23 bunch of different areas of the country. One
24 thing I think we can agree on, can we not,
25 that with the increased dispensing of opium

1 pills, it also increases the chance of
2 diversion, correct?

3 MS. RANJAN: Object to form.

4 MR. PYSER: Object to form,
5 "opium pills."

6 A. Rephrase or restate the
7 question.

8 BY MR. FULLER:

9 Q. Sure.

10 The more pills that are being
11 dispersed or dispensed across the country
12 increases the chance of potential diversion,
13 right?

14 MR. PYSER: Object to form.

15 MS. RANJAN: Object to form.

16 A. You're saying availability?

17 BY MR. FULLER:

18 Q. Yes, sir.

19 A. Yeah. Availability, possibly.

20 Q. And you're aware that the
21 country is in the throes of an opioid
22 epidemic, even prior to your start at
23 Cardinal, correct?

24 A. Yes.

25 Q. And if we have diversion or the

1 increased availability of pills out there,
2 that's going to increase the chance of abuse
3 and addiction, correct?

4 MR. PYSER: Object to form.

5 A. Yes.

6 BY MR. FULLER:

7 Q. All right. And one of the
8 goals behind the Controlled Substance Act --
9 have you ever actually read the Controlled
10 Substance Act?

11 A. Years and years ago.

12 Q. Okay. So do you have an
13 understanding that one of the goals behind
14 the Controlled Substance Act in and of itself
15 is try to form this controlled or this closed
16 system --

17 A. Yes.

18 Q. -- because we are fearful of
19 some of these controlled substances and what
20 would happen if they were just dispersed
21 without any type of oversight?

22 MR. PYSER: Object to form.

23 A. Yes. They're still on the
24 market.

25 --oOo--

1 BY MR. FULLER:

2 Q. And you're also aware that
3 Congress has actually found that the
4 uncontrolled distribution of these type of
5 narcotics could significantly impact or be
6 detrimental to the health, welfare and safety
7 of the American people?

8 MR. PYSER: Object to form.

9 A. Restate the question.

10 BY MR. FULLER:

11 Q. I'm going to do better than
12 that for you if I can find my... no, that's
13 not it.

14 Let's do 4916. Hold on and
15 I'll hand you a copy too, Mr. Morse. This is
16 Plaintiffs' Exhibit 18.

17 (Cardinal-Morse Exhibit 18
18 marked.)

19 BY MR. FULLER:

20 Q. 4916. If you look at the first
21 page up on the screen, number 2 on the
22 screen, Mr. Morse, read that aloud to us.

23 A. "The illegal importation,
24 manufacture, distribution and possession --
25 and possession and improper use of controlled

1 substances have a substantial and detrimental
2 effect on the health and general welfare of
3 the American people."

4 Q. And you don't disagree with
5 that, do you? And I'll tell you, this is a
6 finding by the United States Congress.

7 A. This appears to be as a part of
8 the original Controlled Substance Act --

9 Q. Controlled Substances --

10 A. -- in 19- -- well, the one of
11 1970, not the old Food, Drug and Cosmetics
12 Act.

13 Q. Correct. Correct. And you
14 don't disagree with that, right?

15 A. I do not disagree with that.

16 Q. And that's why we have so many
17 regulations and controls in dealing with
18 controlled substances. Because while they
19 may have some legitimate medical purpose, if
20 they're not handled properly, as we see in a
21 lot of our kids today, they can have a huge
22 detrimental impact on our society as well,
23 correct?

24 MR. PYSER: Object to form.

25 A. The illegal use of controlled

1 substances, yes, can be a problem.

2 BY MR. FULLER:

3 Q. And illegal distribution, the
4 illegal importation, manufacture and
5 distribution as well, correct?

6 MR. PYSER: Object to form.

7 A. Restate the question.

8 BY MR. FULLER:

9 Q. Sure. You said the "illegal
10 use."

11 A. Yes.

12 Q. It's not just the illegal use.
13 Congress said it's the illegal importation,
14 manufacture, distribution and possession and
15 improper use. Right?

16 MR. PYSER: Object to form.

17 A. That's what it says, yes.

18 BY MR. FULLER:

19 Q. And do you agree with that?

20 A. Yes.

21 MR. PYSER: Object to form.

22 BY MR. FULLER:

23 Q. Did you ever do anything,
24 Mr. Morse, with the ingredient limit reports,
25 or know what they are?

1 A. The term was used, but I, at
2 the moment, can't remember what they were.

3 Q. Are you aware of -- what did
4 you do in relation to distribution centers?
5 Did you have anything to do with the
6 distribution centers?

7 A. No. My investigators
8 investigated the customers that we sold to;
9 pharmacies, hospitals, et cetera. We're
10 not -- to answer your question further, we're
11 not an internal investigative unit.

12 Q. You're only external.

13 A. Yes.

14 Q. External to evaluate the risk
15 or potential risk of customers as it relates
16 to diversion of controlled substances,
17 correct?

18 A. Correct.

19 Q. That's mainly all you and your
20 team did, right?

21 A. Correct.

22 Q. And it was your job to, where
23 asked to, go out all across the country,
24 based on issues of concern, do the best
25 analysis you could, and report back.

1 A. Yes.

2 Q. We talked a lot earlier about
3 flags. Oh, and let me ask you, did Dendrite
4 help with on-site visits?

5 A. On occasion.

6 Q. What else did Dendrite do, do
7 you know?

8 A. No.

9 Q. No knowledge of the evaluation
10 of Cardinal's internal systems --

11 A. No.

12 Q. -- that they provided back in
13 late 2007, beginning of 2008?

14 A. No. Before my time, but no.

15 Q. Did they interact with your
16 investigators at all?

17 A. There were times when -- oh,
18 interact with my investigators?

19 Q. Yes, sir. Yes, sir. Did --

20 A. No, they didn't interact, that
21 I'm aware of.

22 Q. Would they do things separately
23 and distinct from your guys? I mean, they
24 would never work together to do an
25 investigation?

1 A. I don't recall that ever
2 happening.

3 (Discussion off the
4 stenographic record.)

5 MR. FULLER: Hold on. Yeah, I
6 got it. I need 4052.

7 BY MR. FULLER:

8 Q. We were talking about red
9 flags. Are you aware that Cardinal had a
10 system to indicate red flags related to
11 purchases of controlled substances, an
12 automated system?

13 A. At this time, I do not recall
14 that.

15 Q. This is P1.4052. It's
16 Exhibit 19, for the record.

17 (Cardinal-Morse Exhibit 19
18 marked.)

19 BY MR. FULLER:

20 Q. And this is similar to some of
21 the policies and procedures we looked at
22 earlier. Do you see it's "Sales -
23 Anti-Diversion Alert Signals"?

24 A. Uh-huh.

25 Q. Have you ever seen this before?

1 A. No. It was sales.

2 Q. Does it appear that it is a
3 policy and procedure maintained by Cardinal?
4 It has Cardinal Health on there?

5 A. Yes.

6 Q. And it's entitled "Sales," but
7 read to the jury the scope of this policy and
8 procedure and who it applies to.

9 A. "This policy applies to Quality
10 & Regulatory Affairs; Supply Chain Integrity;
11 Cardinal Sales."

12 Q. And this was originated in what
13 year? What year is this policy issue date?

14 A. In '08.

15 Q. December 22, '08, after your
16 start date, right?

17 A. Yes.

18 Q. And does it issue -- does it
19 indicate whether there's a previous version
20 or issue?

21 A. Does it? No. It looks like
22 this is new.

23 Q. It says new, right? This is
24 the first of its kind. And it not only
25 applies to sales, like you mentioned, but

1 also QRA and supply chain integrity, which
2 would include your group, correct?

3 A. Yes.

4 Q. So turn to page 3 of the
5 document. And do you know who Tom DeGemmis
6 is? Do you know who he is?

7 A. No.

8 Q. It says he's an SVP, right?

9 A. Yeah, he's a senior VP. I do
10 not know him and never heard the name that
11 I'm aware of.

12 Q. And it seems that -- it appears
13 to be an e-mail that was inputted. It has a
14 date of December 5, 2008, correct?

15 A. Yes.

16 Q. And it talks about suspicious
17 order monitoring update, doesn't it?

18 A. Yes.

19 Q. And so at least according to
20 this procedure, what Mr. Senior Vice
21 President is saying is that "We have heard
22 consistent feedback that more tools are
23 needed to perform regular customer data
24 checks. In response to this feedback, a new
25 report has been created, which we have

1 unofficially been calling The Highlight
2 Report. The Highlight Report has been
3 designed to give Sales a monthly snapshot of
4 each customer's monthly total pharmaceutical
5 sales, six-month purchase history and the
6 purchases of controlled substances to total
7 Rx sales."

8 And if you'd go down to the
9 bullets, it has three different categories.
10 Do you see them down there?

11 A. I see them.

12 MR. FULLER: Go ahead and blow
13 them all up, Gina. Thank you.

14 BY MR. FULLER:

15 Q. So the first one is "Watch
16 List," right?

17 (Telephonic interruption.)

18 MR. FULLER: That means the
19 phone is going to self-destruct in
20 five seconds, unless you accept this
21 mission.

22 THE WITNESS: Somebody went
23 off.

24 MR. PYSER: You know I'm going
25 to object on that.

1 BY MR. FULLER:

2 Q. The first bullet point is

3 "Watch List," correct, Mr. Morse?

4 A. Yes.

5 Q. And it says, "Watch List is a
6 5% increase, or at least \$2500, of controlled
7 substances/List one chemicals. The customers
8 in this category should be added to the sales
9 consultant's watch list," right?

10 A. Yes.

11 Q. All right. Second one, "Yellow
12 Flag." Yellow flag is "A 10% increase, or at
13 least \$5,000, in controlled substances/List
14 one chemical orders. Customers in the yellow
15 flag category will require more data. The
16 PBC should conduct -- excuse me -- contact
17 the account quickly to discuss ordering
18 trends, but an immediate store visit is not
19 required. QRA Field Compliance Officers
20 should be contacted as needed." Right?

21 A. Yes.

22 Q. So we're stepping up. We have
23 a 5% increase. We just need to keep an eye
24 on it. We have a 10% increase, the PBC --
25 which is the pharmacy business consultant,

1 correct?

2 A. Yes. That's his -- most
3 companies will not call it a salesperson.

4 Q. Right. It's the salesperson
5 for that particular pharmacy, right?

6 A. My understanding.

7 Q. So if we're on the yellow flag,
8 they need to contact the customer and see
9 what's going on, but also contact QRA as
10 needed. Right?

11 A. It's QRA field compliance
12 officer.

13 Q. Right.

14 A. That's a field person.

15 Q. Sure. Should be contacted as
16 needed. That's what it says, correct?

17 A. Uh-huh, that's correct.

18 Q. Okay. Red flag. "15%
19 increase, at least \$10,000, of controlled
20 substances/List one chemical orders.
21 Customers in the red flag category should be
22 visited ASAP by the PBC and/or QRA," right?

23 A. Yes.

24 Q. "The PBC should contact
25 Corporate QRA, as well as the local Field

1 Compliance Officer, to work with this account
2 to understand the reason for the drastic
3 increase in controlled substances."

4 Do you see that there?

5 A. I do.

6 Q. Did you realize this was a
7 policy and procedure that Cardinal had in
8 2008 when you were there?

9 A. As we were reviewing this, yes.
10 I do remember that sales had what they're
11 calling, I think, "the watch list."

12 Q. The watch list, the yellow flag
13 and the red flag.

14 A. Yeah, it's --

15 Q. It's a highlight report.

16 A. Yeah, okay, highlight report.

17 Q. That's just above -- they call
18 it "The Highlight Report."

19 So you were aware of this
20 existing?

21 A. I was aware it existed and was
22 being done.

23 Q. And this is a good idea, right?

24 MR. PYSER: Object to form.

25 A. I think so.

1 BY MR. FULLER:

2 Q. Because if we see a 15%, which
3 according to this is a drastic increase, we
4 need to know why. We can at least agree on
5 that. Is that fair?

6 A. Yes.

7 Q. There might be a legitimate
8 reason, there might be an illegitimate
9 reason, but either way, we need to get to the
10 bottom of it, right?

11 A. Yes.

12 MR. PYSER: Object to form,
13 asked and answered.

14 BY MR. FULLER:

15 Q. And whatever due diligence
16 we're doing, it may be just sales, it may be
17 sales and the field compliance office or it
18 may involve corporate QRA, again, just
19 depending, but we should see that documented
20 in the reasoning why we're seeing these
21 increases in these customers' purchases to
22 justify the increases, right?

23 MR. PYSER: Object to form.

24 A. We should see --

25 --oOo--

1 BY MR. FULLER:

2 Q. We should see supporting
3 documentation as to what's going on --

4 MR. PYSER: Object to form.

5 BY MR. FULLER:

6 Q. -- basically.

7 MR. PYSER: Object to form.

8 A. Who is "we" in this? The --

9 BY MR. FULLER:

10 Q. Inside Cardinal.

11 A. -- QRA?

12 Q. Yeah.

13 A. Yes. They see supporting
14 documentation. There could be questions and
15 answers that are just done. Supporting
16 documentation of any of those types of
17 activities, is that what you're asking?

18 Q. Yes, sir. We should see some
19 sort of documentation. If we have a red flag
20 event, say in Cuyahoga County up in Ohio, we
21 should see some explanation in the customer
22 file to explain that event. We've just had a
23 15% increase from month to month, and again,
24 we're dealing in controlled substances, a
25 highly regulated industry. We'd want to put

1 in our file, why is this customer having this
2 increase? Did they just buy out another
3 pharmacy?

4 A. I don't know what their
5 documentation requirements were under this.
6 This --

7 MR. PYSER: Object to form.

8 Object to form on the last question.

9 Go ahead and finish your
10 answer, sir. I didn't mean to cut you
11 off.

12 A. I am not aware of what
13 documentation requirement is required.

14 BY MR. FULLER:

15 Q. I'm asking should be.

16 A. Should be?

17 MR. PYSER: Object to form.

18 BY MR. FULLER:

19 Q. Let me ask you this: If your
20 guys were involved, you'd want to see
21 documentation from them, wouldn't you?

22 A. My guys were involved when it
23 went a little further than this into the red
24 flag. This was a way for them to basically
25 direct where we might need to go visit.

1 Obviously, the visit at that
2 level, we would require documentation. That,
3 I can -- I know of because that was my area.

4 Q. You did it, right.

5 A. What documentation they have
6 for this, I don't know. I don't know what
7 requirements should be there. I don't know.

8 Q. Well, can we agree that a 15%
9 increase needs some sort of explanation?

10 MR. PYSER: Object to form.

11 Just wait for me to get my
12 objection in and go ahead and answer.

13 A. Restate the question, please.

14 BY MR. FULLER:

15 Q. Sure.

16 One, we need to make sure this
17 policy and procedure is being followed,
18 right?

19 MR. PYSER: Object to form.

20 A. "We" being who?

21 BY MR. FULLER:

22 Q. Cardinal.

23 A. Cardinal, yes. Cardinal, yes.

24 Q. Cardinal needs to make sure
25 that this policy and procedure, this

1 highlight report --

2 A. That's what it's for, yes.

3 Q. -- is being followed, and that
4 if we have a red flag, that somebody is
5 making a visit right away, it says AS- --

6 MR. FULLER: Underline that for
7 me.

8 BY MR. FULLER:

9 Q. ASAP.

10 A. As soon as possible, I see it.
11 I know it's there.

12 Q. To visit it ASAP.

13 A. Uh-huh.

14 Q. By the PBC and/or QRA, right?

15 A. Yes.

16 Q. And in order to ensure or be
17 able to follow up and make sure that this
18 stuff is being done, we have to see
19 documentation somewhere.

20 A. I would think so.

21 Q. Okay.

22 MR. PYSER: Object to form on
23 the last question.

24 MR. FULLER: I don't have any
25 further questions.

1 MR. PYSER: We'll take a short
2 break and switch seats.

3 MR. FULLER: Sure.

4 THE VIDEOGRAPHER: Okay. Off
5 the record at 4:12.

6 (Recess taken, 4:12 p.m. to
7 4:31 p.m.)

8 THE VIDEOGRAPHER: Okay, stand
9 by. All right. We're back on the
10 record at 4:31.

11 EXAMINATION

12 BY MR. PYSER:

13 Q. Good afternoon, Mr. Morse. Can
14 you introduce yourself to the jury, please?

15 A. My name is Donald Steven
16 Morris. I go by the name of Steve, middle
17 name.

18 Q. And where did you grow up,
19 Mr. Morse?

20 A. Primarily in Texas.

21 Q. And can you tell us your
22 educational background?

23 A. I am a pharmacist. I have a
24 B.S. degree in pharmacy from the University
25 of Texas, and shortly thereafter became

1 licensed as a pharmacist.

2 Q. So after you became licensed as
3 a pharmacist after graduating from the
4 University of Texas, where did you go to
5 work?

6 A. I worked in community
7 pharmacies, a short-term one there in Austin
8 and then about an hour east in a small
9 community of about 5,000 called Giddings,
10 Texas.

11 Q. In all, how long did you work
12 approximately in community pharmacies?

13 A. About eight years.

14 Q. And then where did you go to
15 work?

16 A. At that time I went to work for
17 the Texas State Board of Pharmacy as a
18 compliance officer.

19 Q. What did you do as a compliance
20 officer for the Texas State Board of
21 Pharmacy?

22 A. Compliance officers, their role
23 was to visit pharmacies, do routine visits to
24 pharmacies, and assess their operations for
25 compliance with the regulations, federal and

1 state; acts, federal and state, that affect
2 pharmacy operations.

3 Q. About how long did you work for
4 the Texas Board of Pharmacy?

5 A. I worked for them for about 19
6 and a half years.

7 Q. And did there come a point in
8 time when you went to work for Cardinal
9 Health?

10 A. Yes.

11 Q. Okay. About when was that?

12 A. That was, I believe, first part
13 of March, in 2008.

14 Q. And how long did you stay at
15 Cardinal?

16 A. Till November 1,
17 two-thousand- -- excuse me, not November.
18 Pardon me. It was -- my last day was the end
19 of January in 2017.

20 Q. And are you retired now?

21 A. I am.

22 Q. What were you initially hired
23 to do at Cardinal Health?

24 A. I was initially hired to hire,
25 to identify and hire a team of investigators

1 that would be responsible for visiting
2 pharmacies as they were assigned to our team
3 to visit.

4 Q. And did you have --

5 MR. FULLER: Object to the form
6 of the last question. Sorry.

7 BY MR. PYSER:

8 Q. Did you have experience in that
9 area?

10 MR. FULLER: Form.

11 A. Experience in visiting
12 pharmacies and assessing them, yes.

13 BY MR. PYSER:

14 Q. And where did you gain that
15 experience before you came to Cardinal
16 Health?

17 A. Well, from the Texas State
18 Board of Pharmacy, number one, doing the --
19 being a compliance officer and visiting them
20 myself. Then running the program for the
21 majority of my time or moving up through the
22 program to the point of being a director of
23 compliance. The last year I moved out of
24 that role of compliance to dealing with
25 drafting rules, et cetera.

1 But also, between the time that
2 I worked for the Board of Pharmacy and
3 Cardinal Health, I visited -- I worked for a
4 mail service pharmacy, and the mail service
5 pharmacy had a team of three individuals that
6 were responsible for running assessment of
7 our investigations -- not really
8 investigations, assessments of their
9 facilities for compliance with the
10 regulations, both federal and state, and the
11 statutes, both federal and state, as they
12 applied in the specific state that the
13 pharmacy was located in, for the mail service
14 pharmacy.

15 Q. So when you came to Cardinal
16 Health, can you describe what the
17 responsibilities were for yourself and the
18 members of your team?

19 MR. FULLER: Form.

20 A. Repeat the question, please.

21 BY MR. PYSER:

22 Q. Sure.

23 You told me -- you told me you
24 started at Cardinal Health in around March
25 of 2008, right?

1 A. Yes.

2 Q. When you started at Cardinal
3 Health, can you describe a little bit of what
4 the responsibilities were for the team you
5 built that you described earlier?

6 A. Okay. Their responsibility was
7 to visit these pharmacies, according to our
8 policies and procedures, that were assigned
9 to us for visits, and they were to try to
10 determine at those pharmacies whether or not
11 there were any indications that the pharmacy
12 may be, or not be, involved in diversion of
13 controlled substances.

14 Q. Did some of the people you
15 hired have law enforcement experience before
16 they came to work at Cardinal Health?

17 A. Yes, they did.

18 Q. Was your investigative team
19 part of the overall anti-diversion team at
20 Cardinal Health?

21 MR. FULLER: Form.

22 A. It was a part of it, yes.

23 BY MR. PYSER:

24 Q. Was your team that you
25 supervised independent from any sales

1 operations at Cardinal Health?

2 A. Yes.

3 MR. FULLER: Object to form.

4 BY MR. PYSER:

5 Q. When Cardinal Health -- were
6 there ever times when Cardinal Health decided
7 to stop doing business with a customer?

8 A. Yes.

9 Q. When a decision like that was
10 made, who had the final decision?

11 MR. FULLER: Form.

12 A. Michael Moné.

13 BY MR. PYSER:

14 Q. Was there ever a time while you
15 were at Cardinal where the sales staff or
16 anyone else blocked the anti-diversion team
17 from taking action against a customer?

18 A. Not that I am aware of, ever.

19 Q. Earlier today you were asked a
20 series of questions by counsel for the
21 plaintiffs about a pharmacy in Florida called
22 Gulf Coast.

23 Do you recall those questions?

24 A. Yes.

25 Q. And during your testimony, you

1 made reference to there being a contact with
2 DEA from one of your investigators related to
3 Gulf Coast.

4 Do you recall that testimony?

5 A. Yes.

6 Q. Okay. I'd like to show you
7 Exhibit 20.

8 (Cardinal-Morse Exhibit 20
9 marked.)

10 BY MR. PYSER:

11 Q. Do you recognize this document?

12 A. This is a record of a visit and
13 supporting documentation for a visit to Gulf
14 Coast Medical Pharmacy. I recognize the
15 document. This was the manner in which my
16 investigators reported the visits, the
17 investigations.

18 MR. PYSER: Counsel, can I
19 borrow your highlighter?

20 MR. FULLER: No.

21 MR. PYSER: If I ask nicely?

22 MR. FULLER: You didn't say
23 "please."

24 MR. PYSER: Please. Thank you.

25 BY MR. PYSER:

1 Q. And the investigator making
2 this report, that was Vincent Moellering?

3 A. Vincent Moellering is correct.

4 Q. And the date is in May of 2009,
5 right?

6 A. Yes.

7 Q. So the questions you were asked
8 about before concerned 2010, but this
9 actually predates the questions you were
10 asked during the plaintiff's examination. Is
11 that right?

12 A. Yes.

13 Q. And among the findings, I just
14 want to draw your attention to the second
15 bullet point about the location and area.

16 You see there it says, "Middle
17 class, inside medical office building
18 adjoining 480-bed hospital, two other medical
19 buildings within the complex, residential
20 area, located in Lee County"?

21 Do you see that?

22 A. Yes.

23 Q. And if you go into the document
24 a little bit further, on the next page, there
25 are additional case notes.

1 Do you see that?

2 A. Yes.

3 Q. Okay. And there's some
4 additional information about the pharmacy,
5 the background, and it lists that the Florida
6 Department of Health has licenses for this
7 pharmacy and the pharmacist who operates it.

8 Do you see that?

9 A. Background -- in item
10 number II, "Background Information"?

11 Q. Yes, number 4 under item
12 number II.

13 A. "Florida Department of Health
14 listing the following: Gulf Coast Medical
15 Pharmacy, license," yes.

16 Q. And in addition, I'd like to
17 draw your attention to the data collection
18 section from the QRA visit site. This is
19 going to be on the third page of the
20 document. I think it's one more from where
21 you are.

22 A. There you go.

23 Q. And you can see it up on the
24 screen as well. There's a general
25 description of the area. And this general

1 description harkens back to what we saw on
2 the first page about the number of beds of
3 the hospital.

4 Do you see that?

5 A. Yes.

6 Q. And it states "Inside a medical
7 office building, connected to hospital, which
8 expanded from 110 beds to 480 beds on
9 March 4, 2009."

10 Do you see that?

11 A. Yes.

12 Q. And it also said, "There are
13 several hundred physicians in the complex,
14 which also includes an Infectious Medical
15 Associate Building."

16 Do you see that?

17 A. Yes.

18 Q. And as we continue on in this
19 document, in Section 20, the investigator
20 noted that there were no out-of-state
21 physicians?

22 A. Yes.

23 Q. And if you go to the very end,
24 there's a section for follow-up notes and
25 inquiries on that last page.

1 A. On the last page?

2 Q. Yes. And it begins "May 7,
3 2009."

4 A. Yes, I see it.

5 Q. Okay. So it states there,
6 "It's obvious from my visit in July 2008, and
7 this visit, that there's been a tremendous
8 growth within the hospital and the
9 surrounding medical clinics within the large
10 complex."

11 Do you see that?

12 A. Yes.

13 Q. Okay. And you were asked on
14 examination from plaintiff's counsel about
15 things that your investigator had heard
16 during the course of his investigation. And
17 there's a reference to that here too. The
18 last line, he says, "I do have some concerns
19 pertaining to the hearsay from other
20 customers, but have nothing of concrete
21 evidence."

22 Do you see that?

23 A. Yes.

24 Q. Okay. But if you look at the
25 last bullet, let's look at another step your

1 investigator took. Do you see what's written
2 there, May 5, 2009?

3 A. Yes.

4 Q. Can you read that last
5 paragraph?

6 A. "Contacted Kenneth" -- I
7 believe it's Boggess, "Senior Investigator,
8 DEA Drug Diversion Team, Tampa, and informed
9 him of the information I collected.
10 Mr. Boggess thanked me and stated he would
11 schedule a visit to the pharmacy and review
12 their filled prescriptions" -- or "filled
13 scripts."

14 Q. So this communication with DEA,
15 I want to talk a little bit more about just
16 that last passage, where it says "review
17 their filled scripts."

18 What does that mean? What does
19 it mean to review filled scripts?

20 A. To, I guess, look at the
21 prescriptions themselves or to see a printout
22 of the prescriptions that would contain all
23 of the information that was on the
24 prescription.

25 Q. Okay. So that would have

1 doctor information and patient information?

2 A. Yes.

3 Q. Okay. So that's something DEA
4 was going to look at, according to this
5 investigator, now?

6 A. According to this, yes.

7 Q. And is that something that
8 Cardinal Health is allowed to look at,
9 because of privacy laws?

10 A. No.

11 Q. Okay. So DEA was told about
12 this pharmacy and they were going to look at
13 a series of information beyond what Cardinal
14 Health was able to see.

15 A. Yes.

16 Q. And to the best of your
17 knowledge, during all the time that Cardinal
18 Health had a relationship with this customer,
19 did they maintain a DEA license?

20 A. Yes.

21 Q. Were there ever times when you
22 personally called a customer to tell them
23 that they were no longer eligible to receive
24 controlled substances from Cardinal Health?

25 MR. FULLER: Object to form.

1 A. Yes, that was one of my duties.

2 BY MR. PYSER:

3 Q. And when you made those calls
4 and told customers or former customers that
5 they were no longer going to be able to
6 receive controlled substances from Cardinal
7 Health, did those pharmacies typically still
8 have valid DEA licenses?

9 A. Yes, at the time of my call.

10 MR. FULLER: Form.

11 BY MR. PYSER:

12 Q. You were also asked questions
13 earlier today when plaintiff's counsel was
14 examining you about pharmacies who use
15 multiple distributors.

16 Do you remember that?

17 A. Yes.

18 Q. Is -- under the laws as you
19 understand them, is it permissible for a
20 pharmacy to use multiple distributors to
21 supply their pharmacy with medication?

22 A. Yes.

23 Q. When a pharmacy uses multiple
24 distributors, would Cardinal Health know what
25 that pharmacy receives from other

1 distributors?

2 MR. FULLER: Object to form.

3 A. No.

4 BY MR. PYSER:

5 Q. Are you familiar with something
6 called ARCOS?

7 A. I became refamiliarized with it
8 earlier today, yes.

9 Q. And is ARCOS something you knew
10 about?

11 A. Yes. Yes.

12 Q. While you were in your job at
13 Cardinal?

14 A. Yes. Yes. I didn't remember
15 the acronym this morning.

16 Q. Got it.

17 To your knowledge, would all
18 distributors report their shipments to
19 pharmacies to DEA through the ARCOS system?

20 A. I believe that is a
21 requirement.

22 Q. So even if a pharmacy was
23 receiving distributions from multiple
24 distributors, DEA would have the total
25 information for that pharmacy in the ARCOS

1 database. Is that right?

2 MR. FULLER: Object to form.

3 A. Yes, I would think so.

4 BY MR. PYSER:

5 Q. Do you have an understanding of
6 whether or not DEA would have information
7 from multiple distributors for a single
8 pharmacy in the ARCOS database?

9 A. Can you restate the question?

10 Q. Sure.

11 Do you have an understanding as
12 to whether or not DEA would have information
13 from multiple distributors in the ARCOS
14 database?

15 A. Since all distributors are
16 required to report to DEA on the ARCOS forms,
17 I would assume, yes. I wouldn't assume; yes,
18 they would.

19 MR. FULLER: Object to form.

20 BY MR. PYSER:

21 Q. Does Cardinal Health have
22 access to the ARCOS database, to your
23 knowledge?

24 A. Not to my knowledge.

25 Q. While you were working in

1 Cardinal Health's anti-diversion group, did
2 you take your best efforts to ensure Cardinal
3 was fulfilling its regulatory
4 responsibilities?

5 MR. FULLER: Form.

6 A. Within my scope, yes.

7 BY MR. PYSER:

8 Q. While you were working at
9 Cardinal Health, did anyone ever ask you to
10 do anything that you believed was immoral or
11 wrong?

12 A. No.

13 Q. Were you provided adequate
14 resources for you and your team to do your
15 job at Cardinal Health?

16 A. I believe so, yes.

17 Q. In your experience at Cardinal
18 Health over nine years, did you ever see
19 Cardinal Health ship an order that you
20 believed would be diverted?

21 A. No.

22 MR. PYSER: No further

23 questions. Thank you, Mr. Morse.

24 We can go off the record.

25 THE VIDEOGRAPHER: Okay. Off

1 the record at 4:49.

2 (Recess taken, 4:49 p.m. to
3 4:54 p.m.)

4 THE VIDEOGRAPHER: All right,
5 stand by. All right. We're back on
6 the record at 4:54.

7 FURTHER EXAMINATION

8 BY MR. FULLER:

9 Q. Sir, grab Exhibit 20 that you
10 have right in front of you. Yes, sir. Turn
11 to the second page. This is what you and
12 Mr. Pyser were talking about just a moment
13 ago. Right?

14 A. This document is correct,
15 that's correct.

16 Q. And this is Moellering's
17 investigation of Gulf Coast Pharmacy back in
18 May of 2009.

19 A. Yes.

20 Q. So that would have been one of
21 the first times he visited prior to the
22 visits that we looked at. Correct?

23 A. Yes.

24 Q. Does he indicate in here
25 anywhere what the -- well, yeah, he does.

1 Okay. So go to the next page, "Background
2 Investigative Findings."

3 Do you see that?

4 A. Yes.

5 Q. Go to number 8.

6 MR. FULLER: Keep this on,
7 please, somebody.

8 THE VIDEOGRAPHER: Uh-huh.

9 A. Yes.

10 BY MR. FULLER:

11 Q. All right. Read number 8 aloud
12 to us.

13 A. "Review of the CAH" -- Cardinal
14 Health -- "CS," controlled substance,
15 "purchase history revealed a sharp increase
16 in oxycodone purchases from 21,800 pills in
17 October 2009 to 37,900 pills in
18 November 2009."

19 Q. So where did they end up in
20 2011? Do you remember?

21 A. I don't remember.

22 Q. Over 300,000 pills was their
23 threshold.

24 A. Okay.

25 Q. Per month, right?

1 A. I believe that was the figure.

2 Q. Over 10 times what's documented
3 here. And even here, we're seeing
4 significant growth that he's indicating,
5 correct?

6 A. Yes.

7 Q. Well, hold on, let's look.
8 Because if you go back to the page just
9 before that, where's 70% of their business
10 coming from?

11 A. This is self-reported.
12 Controlled substance sales, CS sales, is
13 70% -- controlled substance sales is 70% due
14 to the hospital and three pain clinics in
15 office building.

16 Q. So how much was due to the
17 three pain clinics? And you know during this
18 time Florida was cracking down on pain
19 clinics, right?

20 MR. PYSER: Object to form.

21 BY MR. FULLER:

22 Q. Pill mills?

23 A. In 2009, that was, I believe,
24 the beginning of it.

25 Q. Yes, sir. Pam Bondi had

1 recently become elected Attorney General down
2 there and one of her main focuses during this
3 time frame was cracking down on pill mills.

4 You know that, right?

5 MR. PYSER: Object to form.

6 A. I don't know who that person
7 is.

8 BY MR. FULLER:

9 Q. So you don't know who the
10 Attorney General was in Florida?

11 A. I do not know who the Attorney
12 General was in Florida, no. However, I'm --
13 I'm saying yes to your statement that on or
14 about this time, pill mills were beginning to
15 be focused on.

16 Q. And three pain clinics in one
17 office building would be a red flag, wouldn't
18 it?

19 MR. PYSER: Object to form.

20 A. Could be.

21 BY MR. FULLER:

22 Q. So do we know how much was
23 coming from the hospital versus how many was
24 coming -- what percentage of controlled
25 substances were being prescribed by these

1 three pain clinics that are in the same
2 building?

3 A. That was not noted.

4 Q. That would be good information
5 to have, wouldn't it?

6 MR. PYSER: Object to form.

7 A. Potentially.

8 BY MR. FULLER:

9 Q. And did we see anything
10 indicating that we'd obtained the dosage
11 usage information from the pharmacy?

12 A. I would have to read the entire
13 case notes to find that out, sir.

14 Q. Well, don't worry about it. If
15 Mr. Pyser didn't point it out, must not be
16 too important.

17 MR. PYSER: If you want to look
18 in there and find it, you're welcome
19 to.

20 BY MR. FULLER:

21 Q. So the second page -- the third
22 page, what percentage is cash?

23 A. On question 14, "Payment
24 sources," the percentage is 40%.

25 Q. That's abnormally high too,

1 isn't it? That's another red flag, right?

2 A. Yes. Could be. Could be.

3 Q. All right. And we know what
4 the history was on Gulf Coast, don't we?

5 A. Yes.

6 Q. What happened to them in the
7 end of 2011?

8 A. End of 2011, we found out they
9 were -- they were not being truthful with us.
10 We cut them off, and shortly thereafter, DEA
11 got them to surrender their license.

12 Q. Well, you didn't cut them off
13 until after the DEA served an administrative
14 inspection warrant asking for information
15 related to them, right?

16 A. I'm not sure of the chronology.

17 Q. So you don't know whether or
18 not the DEA issued the warrant to Cardinal to
19 provide information related to that pharmacy
20 before you decided to cut them off or whether
21 it was after that?

22 MR. PYSER: Object to form.

23 BY MR. FULLER:

24 Q. You're not sure?

25 MR. PYSER: Object to form.

1 A. I don't know the timeline. I
2 know the reason that they were cut off was we
3 found out that they were not telling us the
4 truth about some prescriptions that they were
5 supposedly filling to -- to aggregate in one
6 location before the sheriff's department
7 found out that was not true. We cut them off
8 immediately. I'm not sure where that was in
9 the timeline of them getting an order or
10 anything.

11 BY MR. FULLER:

12 Q. Not them getting an order.
13 Cardinal receiving an administrative
14 inspection warrant asking for information
15 from them.

16 A. I don't know the timeline on
17 that.

18 MR. PYSER: Object to form.

19 BY MR. FULLER:

20 Q. Okay. And additionally, you
21 know what happened when DEA filed its
22 administrative inspection warrant on Gulf
23 Coast, too, don't you? You saw it earlier
24 today. It voluntarily --

25 A. That was the -- okay.

1 Q. -- surrendered --

2 A. Yes, they voluntarily
3 surrendered.

4 Q. -- their DEA license because
5 they knew they were in trouble, right?

6 MR. PYSER: Object to form.

7 A. I don't know why they
8 surrendered it.

9 BY MR. FULLER:

10 Q. Why else would they give it up?

11 A. I don't know why they would
12 surrender it.

13 Q. Can you think of any other
14 reason?

15 A. I don't know why they
16 surrendered it.

17 MR. PYSER: Whoa, whoa, whoa.
18 You've got to wait and let me get my
19 objection in before you answer the
20 question.

21 BY MR. FULLER:

22 Q. Now, you know --

23 MR. PYSER: Object to form on
24 the last two.

25 THE WITNESS: Sorry.

1 BY MR. FULLER:

2 Q. We already talked about the
3 fact that Cardinal's license was suspended in
4 2012 as well, correct?

5 A. Yes.

6 Q. And you know that they finally,
7 or ultimately, reached an agreement with the
8 DEA, right?

9 A. Yes.

10 Q. This one will be 3715. This
11 will be Plaintiffs' Exhibit 21.

12 (Cardinal-Morse Exhibit 21
13 marked.)

14 MR. PYSER: I'm going to object
15 to this line of questioning as being
16 beyond the scope of the examination.

17 BY MR. FULLER:

18 Q. If you go to page 3 of the
19 agreement -- or I say page 3 of the
20 agreement. Page 3 at the top. I apologize.
21 "Stipulation and Agreement."

22 Do you see that section there?

23 A. Yes. This is the memorandum of
24 agreement. Okay.

25 Q. That's correct.

1 A. Stipulation and Agreement on
2 page 3.

3 Q. Have you seen this document
4 before? If you go to page 9 is where the
5 people signed off on it, 9 and -- yeah,
6 page 9.

7 A. The timing on this again was --
8 when was this issued? It says on page 9?

9 Q. Yes, sir.

10 A. Okay.

11 Q. May 14 of 2012.

12 A. Okay.

13 Q. You don't remember when this
14 all went on? Maybe you don't.

15 A. It's been a long time, sir.

16 Q. I'm just asking if you remember
17 or not.

18 A. Okay. This MOA was completed
19 in May. Okay. And -- yes.

20 Q. You're still in regulatory
21 during that time, right?

22 A. Yes.

23 Q. And look up there.

24 "Stipulation and Agreement. The facts
25 alleged in the Order to Show Cause, as well

1 as the facts alleged in the Government's
2 filings in The Matter of Cardinal Health, DEA
3 Docket No. 12-32, as listed in Appendix D,
4 constitute grounds under which the DEA could
5 revoke the DEA registration of Cardinal
6 Lakeland."

7 That's part of the agreement,
8 right? At least that's what it says.

9 MR. PYSER: Object to form.

10 A. That's what it says.

11 BY MR. FULLER:

12 Q. It says "Cardinal admits" --
13 this isn't one where they deny any
14 admissions. "Cardinal admits that its due
15 diligence efforts for some pharmacy customers
16 and its compliance with the 2008 MOA, in
17 certain respects, were inadequate."

18 Did you know before today that
19 Cardinal admitted it failed to comply with
20 the Controlled Substance Act as well as its
21 obligations under the 2008 MOA? Did you know
22 that before today?

23 MR. PYSER: Object to form.

24 A. This is not -- yes. I knew
25 that this MOA had been written. Whether

1 Cardinal admitted to anything --

2 BY MR. FULLER:

3 Q. Did you know that they
4 admitted?

5 A. No, and this admission here
6 appears to be couched in some very specific
7 language.

8 Q. Very specific.

9 A. Yeah.

10 Q. That "Cardinal admits" --

11 A. "For some customers."

12 Q. -- "its due diligence efforts
13 for some customers and its compliance with
14 the 2008 MOA, in certain respects, were
15 inadequate."

16 A. Certain respects, some
17 customers, yes, I see that.

18 MR. PYSER: Object to form.

19 BY MR. FULLER:

20 Q. And we've looked at a lot of
21 different customers so far today, haven't we?

22 A. Yes, we have.

23 Q. Gulf Coast being one of them,
24 CVS 219 being another one of them, right?

25 A. Yes.

1 Q. We looked at some customers in
2 other parts of the country as well, correct?

3 A. Yes.

4 Q. And Cardinal is admitting in
5 this document that its due diligence efforts
6 for some customers failed.

7 MR. PYSER: Object to form.

8 BY MR. FULLER:

9 Q. And that in some respects it
10 did not live up to the obligations it agreed
11 to in 2008 MOU -- or MOA. MOA.

12 MR. PYSER: Object to form.

13 BY MR. FULLER:

14 Q. Right?

15 A. In some aspects for some
16 customers, yes.

17 Q. And you didn't know that before
18 today, that they had admitted to that? No
19 one shared that with you?

20 A. I -- my understanding of the
21 MOA was that it was an agreement for us to
22 do certain -- for Cardinal to do certain
23 things. I was not aware of any admissions in
24 it of any kind.

25 Q. That's all I'm asking you.

1 A. No, I was not aware.

2 Q. I'm asking you, did you know
3 that Cardinal admitted --

4 A. No.

5 Q. -- to these deviations --

6 A. No. I've never seen this.

7 MR. PYSER: Object to form.

8 Sir, as counsel is asking you
9 questions, you've got to pause just a
10 beat so I can object.

11 Object to form for that last
12 line of questioning.

13 BY MR. FULLER:

14 Q. Did anybody come to you and
15 tell you in which aspects that Cardinal
16 failed in its due diligence?

17 MR. PYSER: Object to form.

18 A. I believe I just said I wasn't
19 aware of it at all.

20 BY MR. FULLER:

21 Q. But you said you weren't aware
22 they admitted it. I'm just wondering if they
23 told you where they failed.

24 MR. PYSER: Object --

25 A. No.

1 MR. PYSER: Object to form.

2 A. No.

3 BY MR. FULLER:

4 Q. Did they ever tell you where
5 they failed in compliance with their prior
6 agreement with the federal government based
7 on the 2008 MOA?

8 MR. PYSER: Object to form,
9 asked and answered.

10 A. No.

11 MR. FULLER: I don't have
12 anything further.

13 MR. PYSER: No questions from
14 me.

15 THE VIDEOGRAPHER: Okay. Are
16 we good?

17 MR. FULLER: Done.

18 THE VIDEOGRAPHER: All right.
19 Off the record at 5:07. This
20 concludes the deposition.

21 (Deposition recessed at
22 5:07 p.m.)

23 --o0o--

24

25

CERTIFICATE

I, SUSAN PERRY MILLER, Registered Diplomat Reporter, Certified Realtime Reporter, Certified Court Reporter and Notary Public, do hereby certify that prior to the commencement of the examination, DONALD STEVEN MORSE was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that pursuant to FRCP Rule 30, signature of the witness was not requested by the witness or other party before the conclusion of the deposition.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Susan Perry Miller
CSR-TX, CCR-LA, CSR-CA-13648
Registered Diplomat Reporter
Certified Realtime Reporter
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Notary Public, State of Texas
My Commission Expires 03/30/2020
Dated: 17th of December, 2018

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Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

1	ERRATA		
2	PAGE	LINE	CHANGE
3	_____	_____	_____
4		REASON:	_____
5	_____	_____	_____
6		REASON:	_____
7	_____	_____	_____
8		REASON:	_____
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18		REASON:	_____
19	_____	_____	_____
20		REASON:	_____
21	_____	_____	_____
22		REASON:	_____
23	_____	_____	_____
24		REASON:	_____
25			

1 ACKNOWLEDGMENT OF DEPONENT

2
3
4 I, DONALD STEVEN MORSE, do hereby
5 certify that I have read the foregoing pages
6 and that the same is a correct transcription
7 of the answers given by me to the questions
8 therein propounded, except for the
9 corrections or changes in form or substance,
10 if any, noted in the attached
11 Errata Sheet.
12

13 _____
14 DONALD STEVEN MORSE

DATE

15 Subscribed and sworn to before me this
16 _____ day of _____, 20 ____.

17 My commission expires: _____
18

19 _____
20 Notary Public
21
22
23
24
25

	LAWYER'S NOTES		
	PAGE	LINE	
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